



District of Columbia

REGISTER

HIGHLIGHTS

- DC Council passes Act 19-677, Omnibus Criminal Code Amendments Act of 2012
- DC Council passes Act 19-678, Omnibus Alcoholic Beverage Regulation Amendment Act of 2012
- Department of Health establishes standards for regulating tanning facilities
- Office of the City Administrator proposes guidelines for regulating vending in the District of Columbia
- Office of the State Superintendent of Education proposes guidelines for preventing chronic absenteeism and truancy
- Department of Health announces funding availability for medical support services to indigent, uninsured and under-insured persons who are living with HIV/AIDS
- Department of Housing and Community Development announces funding availability for the administration of the District of Columbia Homebuyer Assistance Programs
- District Department of Transportation announces funding availability for the FY 2014 Highway Safety Grants

DISTRICT OF COLUMBIA REGISTER

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ENROLLED ORIGINAL

AN ACT

D.C. ACT 19-675

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
FEBRUARY 11, 2013

Codification
District of Columbia
Official Code
2001 Edition

Summer 2013

To amend the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Act of 1998 to comply with applicable tax qualification provisions of the Internal Revenue Code for governmental retirement plans.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Act of 1998 Amendment Act of 2012".

Sec. 2. The Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), is amended as follows:

Amend
§ 1-905.03

(a) Section 123 (D.C. Official Code § 1-905.03) is amended to read as follows:
"Sec. 123. Tax treatment of plan.

"The replacement plan described in section 121 shall be deemed a "governmental plan" as defined in section 414(d) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 *et seq.*) ("Internal Revenue Code"), which is intended to qualify under section 401(a) of the Internal Revenue Code, and all benefits provided from the replacement plan shall be deemed governmental plan benefits maintained by the District."

(b) Section 203 (D.C. Official Code § 1-911.03) is amended to read as follows:
"Sec. 203. Alienation of benefits.

Amend
§ 1-911.03

"Benefits of the retirement programs provided for in this act shall not be assigned or alienated, except to the extent expressly permitted by this act or by another applicable law and with respect to a domestic relations order that substantially meets all of the requirements of section 414(p) of the Internal Revenue Code, as determined solely by the Retirement Board."

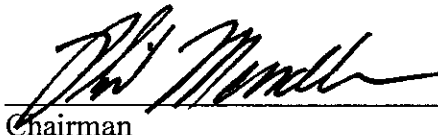
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Sec. 3. Fiscal impact statement.

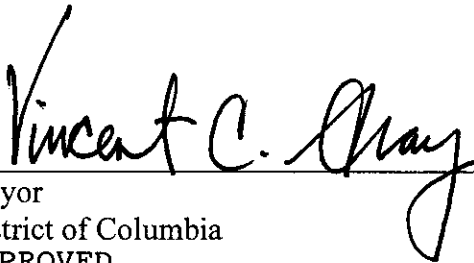
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 11, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 19-676

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 11, 2013

Codification
District of Columbia
Official Code
2001 Edition

Summer 2013

To amend, on a temporary basis, the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Act of 1998 to comply with applicable tax qualification provisions of the Internal Revenue Code for governmental retirement plans.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Act of 1998 Temporary Amendment Act of 2012".

Sec. 2. The Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), is amended as follows:

(a) Section 123 (D.C. Official Code § 1-905.03) is amended to read as follows:
"Sec. 123. Tax treatment of plan.

Note,
§ 1-905.03

"The replacement plan described in section 121 shall be deemed a "governmental plan" as defined in section 414(d) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 *et seq.*) ("Internal Revenue Code"), which is intended to qualify under section 401(a) of the Internal Revenue Code, and all benefits provided from the replacement plan shall be deemed governmental plan benefits maintained by the District."

(b) Section 203 (D.C. Official Code § 1-911.03) is amended to read as follows:
"Sec. 203. Alienation of benefits.

Note,
§ 1-911.03

"Benefits of the retirement programs provided for in this act shall not be assigned or alienated, except to the extent expressly permitted by this act or by another applicable law and with respect to a domestic relations order that substantially meets all of the requirements of section 414(p) of the Internal Revenue Code, as determined solely by the Retirement Board."

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Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
February 11, 2013

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AN ACT

D.C. ACT 19-677Codification
District of Colum
Official Code
2001 Edition

Summer 2013

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 11, 2013

To amend the Omnibus Public Safety and Justice Amendment Act of 2009 to clarify that intentionally failing to charge a detection device is considered tampering for purposes of the offense; to amend An act for the preservation of the public peace and the protection of property within the District of Columbia to return prosecutorial authority on certain matters to the Office of the Attorney General, and to permit a charge for a less serious offense where one or more persons demonstrate in an area where it is not permitted and remain or return to the area after receiving a warning from law enforcement; to amend the District of Columbia Law Enforcement Act of 1953 to prohibit excessive noise and disruptive conduct in public buildings and to return prosecutorial authority on certain matters to the Office of the Attorney General; to amend An Act Regulating the issuance of checks, drafts, and orders for the payment of money within the District of Columbia to increase the felony threshold for a "bad check" to \$1,000; to amend An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes to clarify a provision related to escape from an institution or officer; to amend the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001 to designate the Criminal Justice Coordinating Council as a criminal justice agency for purposes of accessing criminal justice-related data and information; to amend Title 23 of the District of Columbia Official Code to conform the District's Crime Victim's Rights statute with the federal statute on crime victims restitution, to modify the list of offenses for which pre-trial detention is authorized, and to allow law enforcement officers to arrest, without a warrant, an individual that he or she has probable cause to believe has committed a misdemeanor offense outside of the officer's presence; to amend the Federal Law Enforcement Officer Cooperation Act of 1999 to make conforming changes related to amendments in Title 23 related to law

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enforcement officers' ability to arrest without a warrant; to amend the District of Columbia Uniform Controlled Substances Act of 1981 to clarify the Mayor's authority to schedule substances, and to add to the list of controlled substances those substances that have recently been added to the federal controlled substances act; to amend An Act To establish a code of law for the District of Columbia to create offenses for assault and aggravated assault on a public vehicle inspection officer; to amend the District of Columbia Taxicab Commission Establishment Act of 1985 to create an offense for fleeing from a public vehicle inspection officer; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to approve the compensation for the Director of the Department of Forensic Sciences; to amend The District of Columbia Health Occupations Revision Act of 1985 to clarify the regulation of massage therapists; to amend the Motor Vehicle Theft Prevention Act of 2008 to incorporate technical corrections; to amend the Access to Justice Initiative Establishment Act of 2010 to enlarge the number of eligible participants and improve civil legal services to low-income residents; to amend the Omnibus Police Reform Amendment Act of 2000 to clarify the duties of the Police Officers Standards and Training Board; to amend the Arson Investigators Amendment Act of 1998 to provide authority related to ensuring compliance with the fire code; to amend the Department of Forensic Sciences Establishment Act of 2011 to clarify the membership of the Science Advisory Board; to amend the Homeland Security, Risk Reduction, and Preparedness Amendment Act of 2006 to change the terms of commission members; to amend section 16-914 of the District of Columbia Official Code to prohibit a person convicted of rape from obtaining legal custody, physical custody, or any visitation rights with a child that has been conceived as a result of that rape; to amend the Innocence Protection Act of 2001 to amend the definition of "Biological material"; to repeal section 47-2811(b) of the District of Columbia Official Code; to amend the District of Columbia Traffic Act, 1925 to make technical corrections; and to repeal section 401 of An Act To provide for the more effective prevention, detection, and punishment of crime in the District of Columbia; the Criminal Justice Supervisory Board Act of 1978; and Chapter 10 of Title 28 of the District of Columbia Municipal Regulations

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Omnibus Criminal Code Amendments Act of 2012".

TITLE I -- CRIMINAL CODE AMENDMENTS

Sec. 101. Section 103(a)(1) of the Omnibus Public Safety and Justice Amendment

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Act of 2009, effective December 10, 2009 (D.C. Law 18-88; D.C. Official Code § 22-1211(a)(1)), is amended as follows:

(a) Subparagraph (A) is amended by striking the phrase “device; or” and inserting the phrase “device;” in its place.

(b) Subparagraph (B) is amended by striking the phrase “device.” and inserting the phrase “device; or” in its place.

(c) A new subparagraph (C) is added to read as follows:

“(C) Intentionally fail to charge the power for the device or otherwise maintain the device’s battery charge or power.”.

Sec. 102. Section 6 of An act for the preservation of the public peace and the protection of property within the District of Columbia, approved July 29, 1892 (27 Stat. 323; D.C. Official Code § 22-1307), is amended to read as follows:

“Sec. 6. Crowding, obstructing, or incommoding.

“(a) It is unlawful for a person, alone or in concert with others:

“(1) To crowd, obstruct, or incommode:

“(A) The use of any street, avenue, alley, road, highway, or sidewalk;

“(B) The entrance of any public or private building or enclosure;

“(C) The use of or passage through any public building or public conveyance; or

“(D) The passage through or within any park or reservation; and

“(2) To continue or resume the crowding, obstructing, or incommoding after being instructed by a law enforcement officer to cease the crowding, obstructing, or incommoding.

“(b)(1) It is unlawful for a person, alone or in concert with others, to engage in a demonstration in an area where it is otherwise unlawful to demonstrate and to continue or resume engaging in a demonstration after being instructed by a law enforcement officer to cease engaging in a demonstration.

“(2) For purposes of this subsection, the term “demonstration” means marching, congregating, standing, sitting, lying down, parading, demonstrating, or patrolling by one or more persons, with or without signs, for the purpose of persuading one or more individuals, or the public, or to protest some action, attitude, or belief.

“(c) A person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, passed on 2nd reading on November 1, 2012 (Enrolled version of Bill 19-214), imprisoned for not more than 90 days, or both.”.

Sec. 103. Section 211 of the District of Columbia Law Enforcement Act of 1953, approved June 29, 1953 (67 Stat. 98; D.C. Official Code § 22-1321), is amended as follows:

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(a) Subsection (c) is amended to read as follows:

“(c) It is unlawful for a person to engage in loud, threatening, or abusive language, or disruptive conduct with the intent and effect of impeding or disrupting the lawful use of a public conveyance by one or more other persons.”.

(b) A new subsection (c-1) is added to read as follows:

“(c-1) It is unlawful for a person to engage in loud, threatening, or abusive language, or disruptive conduct in a public building with the intent and effect of impeding or disrupting the orderly conduct of business in that public building.”.

Sec. 104. An Act Regulating the issuance of checks, drafts, and orders for the payment of money within the District of Columbia, approved July 1, 1922 (42 Stat. 820; D.C. Official Code § 22-1510), is amended as follows:

(a) Strike the phrase “instrument is \$100 or more” and insert the phrase “instrument is \$1,000 or more” in its place.

(b) Strike the phrase “is less than \$100” and insert the phrase “has some value” in its place.

Sec. 105. Section 8(a)(1) of An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, approved July 15, 1932 (47 Stat. 698; D.C. Official Code § 22-2601(a)(1)), is amended as follows:

(a) Strike the word “penal” and insert the phrase “penal or correctional” in its place.

(b) Strike the phrase “, judge, or commissioner”.

Sec. 106. Section 1504 of the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 22-4233), is amended as follows:

(a) Subsection (a) is amended as follows:

(1) Paragraph (7) is amended by striking the phrase “Corporation Counsel for the District of Columbia” and inserting the phrase “Attorney General for the District of Columbia” in its place.

(2) Paragraph (8) is amended by striking the phrase “Human Services’ Youth Services Administration” and inserting the phrase “Youth Rehabilitation Services” in its place.

(3) Paragraphs (13), (16), and (17) are repealed.

(4) Paragraph (15) is amended by adding the word “and” at the end.

(5) A new paragraph (18) is added to read as follows:

“(18) The United States Marshal, Superior Court of the District of Columbia.”.

(b) Subsection (b) is repealed.

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Sec. 107. Title 23 of the District of Columbia Official Code is amended as follows:

(a) Section 23-1331 is amended as follows:

(1) Paragraph (3) is amended as follows:

(A) Subparagraph (H) is amended by striking the phrase “abuse; or” and inserting the phrase “abuse;” in its place.

(B) Subparagraph (I) is amended by striking the phrase “offense.” and inserting the phrase “offense; or” in its place.

(C) A new subparagraph (J) is added to read as follows:

“(J) Fleeing from an officer in a motor vehicle (felony).”

(2) Paragraph (4) is amended as follows:

(A) Strike the phrase “assault with intent to commit any other offense” and insert the phrase “assault with significant bodily injury; assault with intent to commit any other offense” in its place.

(B) Strike the phrase “or an attempt or conspiracy” and insert the phrase “or an attempt, solicitation, or conspiracy” in its place.

(b) Section 23-1905(2)(A)(i) is amended by striking the word “violent”.

(c) Section 23-1322(c)(7) is amended by striking the phrase “§ 22-4503 (unlawful possession of a firearm) or [§ 22-2511] (presence in a motor vehicle containing a firearm)” and inserting the phrase “or § 22-4503 (unlawful possession of a firearm)” in its place.

TITLE II -- PROBABLE CAUSE MISDEMEANOR ARREST

Sec. 201. Section 2(a) of the Federal Law Enforcement Officer Cooperation Act of 1999, effective May 9, 2000 (D.C. Law 13-100; D.C. Official Code § 5-301(a)), is amended as follows:

(a) The lead-in language is amended by striking the phrase “the Department” and inserting the phrase “MPD” in its place.

(b) Paragraph (2) is amended as follows:

(1) Strike the phrase “reasonably believes” and insert the phrase “has probable cause to believe” in its place.

(2) Strike the phrase “in his presence” at the end.

Sec. 202. Section 23-581 of the District of Columbia Official Code is amended as follows:

(a) Subsection (a-7) is amended to read as follows:

“(a-7) A law enforcement officer may arrest a person without a warrant if the officer has probable cause to believe the person has committed the offense of misdemeanor sexual abuse, misdemeanor sexual abuse of a child or minor, or lewd, indecent, or obscene acts, or sexual proposal to a minor, as provided in §§ 22-3006,

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22-3010.01, and 22-1312.”.

(b) New subsections (a-8) and (a-9) are added to read as follows:

“(a-8) A law enforcement officer may arrest a person without a warrant if the officer has probable cause to believe the person has committed the offense of stalking as provided in § 22-3133.

“(a-9) A law enforcement officer may arrest a person without a warrant if the officer has probable cause to believe the person has committed the offense of presenting a fraudulent identification document for the purpose of entering an establishment possessing an on-premises retailer’s license, an Arena C/X license, or a temporary license as provided in § 25-1002(b)(2).”.

TITLE III -- CONTROLLED SUBSTANCES

Sec. 301. The District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.01 *et seq.*), is amended as follows:

(a) Section 201(d) (D.C. Official Code § 48-902.01(d)) is amended to read as follows:

“(d) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law, the Mayor may similarly designate, reschedule, or delete the controlled substance under this act, or may otherwise designate, reschedule or delete as a controlled substance pursuant to subsections (a) and (b) of this section.”.

(b) Section 204 (D.C. Official Code § 48-902.04) is amended as follows:

(1) Paragraph (3) is amended as follows:

(A) Subparagraph (X) is amended by striking the word “and”.

(B) New subparagraphs (Z) through (KK) are added to read as

follows:

“(Z) Alpha-methyltryptamine (other name: AMT);

“(AA) 5-methoxy-N,N-diisopropyltryptamine (other name: 5-

MeO-DIPT);

“(BB) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name:

2C-T-7);

“(CC) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);

“(DD) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D);

“(EE) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);

“(FF) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);

“(GG) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2);

“(HH) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-

T-4);

“(II) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);

“(JJ) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N); and

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“(KK) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P);”.

(2) Paragraph (4) is amended as follows:

(A) Subparagraph (A) is amended by striking the word “and”.

(B) A new subparagraph (C) is added to read as follows:

“(C) Gamma-hydroxybutyric acid (some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);”.

(3) Paragraph (5) is amended as follows:

(A) The lead-in language is amended by striking the word “including” and inserting the phrase “including their analogues or derivatives and” in its place.

(B) Subparagraph (B) is amended by striking the word “and”.

(C) Subparagraph (C) is amended by striking the phrase “Cathinone.” and inserting the phrase “Cathinone;” in its place.

(D) New subparagraphs (D) through (H) are added to read as follows:

“(D) N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);

“(E) Methcathinone (Some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432), its salts, optical isomers and salts of optical isomers, as well as synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to methcathinone;

“(F) 4-methyl-N-methylcathinone (other name: mephedrone);

“(G) 3,4-methylenedioxypropylone (other name: MDPV); and

“(H) 3,4-methylenedioxy-N-methylcathinone (other name: methylone).”.

(c) Section 206(4)(G) (D.C. Official Code § 48-902.06(4)(G)) is amended by striking the word “Dronabianol” and inserting the word “Dronabinol” in its place.

(d) Section 208(a) (D.C. Official Code § 48-902.08(a)) is amended as follows:

(1) Paragraph (5)(BB) is amended by striking the word “and” at the end.

(2) Paragraph (6) is amended by striking the phrase “Cannabis.” and inserting the phrase “Cannabis; and” in its place.

(3) A new paragraph (7) is added to read as follows:

“(7)(A) Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of cannabimimetic agents, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

“(B)(i) For the purposes of this paragraph, the term “cannabimimetic

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agents” means any substance that is a cannabinoid receptor type 1 (CB1 receptor) agonist as demonstrated by binding studies and functional assays within any of the following structural classes:

“(I) 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent.

“(II) 3-(1-naphthoyl)indole or 3-(1-naphthylmethane)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent.

“(III) 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent.

“(IV) 1-(1-naphthylmethylene)indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent.

“(V) 3-phenylacetylindole or 3-benzoylindole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent.

“(ii) The term “cannabimimetic agents” includes:

“(I) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c] chromen-1-ol (HU-210);

“(II) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP 47,497);

“(III) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP-47,497 C8-homolog);

“(IV) 1-pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678);

“(V) 1-butyl-3-(1-naphthoyl)indole (JWH-073);

“(VI) 1-hexyl-3-(1-naphthoyl)indole (JWH-019);

“(VII) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200);

“(VIII) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250);

“(IX) 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081);

“(X) 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122);

“(XI) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398);

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(AM2201); “(XII) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole
 (AM694); “(XIII) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole
 19 and RCS-4); “(XIV) 1-pentyl-3-[(4-methoxy)-benzoyl]indole (SR-
 methoxyphenylacetyl)indole (SR-18 and RCS-8); and
 (JWH-203).” “(XVI) 1-pentyl-3-(2-chlorophenylacetyl)indole

(e) Section 210(a) (D.C. Official Code § 48-902.10(a)) is amended as follows:

(1) Paragraph (1) is amended as follows:

(A) Subparagraph (UU) is amended by striking the word “and”.

(B) Subparagraph (VV) is amended by striking the phrase “Triazolam;” and inserting the phrase “Triazolam; and” in its place.

(C) A new subparagraph (WW) is added to read as follows:
 “(WW) Fospropofol;”.

(2) Paragraph (3)(D) is amended by striking the word “Cathine” and inserting the word “Cathine” in its place.

(f) Section 408 (D.C. Official Code § 48-904.08), is amended as follows:

(1) Subsection (a) is amended by striking the phrase “convicted of a second or subsequent offense under this act” and inserting the phrase “convicted under this act of a second or subsequent offense” in its place; and

(2) Subsection (b) is amended by striking the phrase “narcotic drugs, depressants, stimulants, or hallucinogenic drugs” and inserting the phrase “a controlled substance” in its place.

TITLE IV -- ASSAULT ON PUBLIC VEHICLE INSPECTION OFFICERS

Sec. 401. An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1189; codified in scattered cites of the D.C. Official Code), is amended by adding new sections 806b and 806c to read as follows:

“Sec. 806b. Assault on a public vehicle inspection officer.

“(a) A person commits the offense of assault on a public vehicle inspection officer if that person assaults, impedes, intimidates, or interferes with a public vehicle inspection officer while that officer is engaged in or on account of the performance of his or her official duties.

“(b) A person who violates this subsection shall be guilty of a misdemeanor and, upon conviction, shall:

“(1) Be fined not more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, passed on 2nd reading on November

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1, 2012 (Enrolled version of Bill 19-214), or be imprisoned for not more than 180 days; and

“(2) Have his or her license or licenses for operating a public vehicle-for-hire, as required by the Commission pursuant to the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-301 *et seq.*), revoked without further administrative action by the Commission.

“(c) It is neither justifiable nor excusable for a person to use force to resist the civil enforcement authority exercised by an individual believed to be a public vehicle inspection officer, whether or not such enforcement action is lawful.

“(d) For the purposes of this section, the term:

“(1) “Commission” shall have the same meaning as provided in section 4(6) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-303(6)).

“(2) “Public vehicle-for-hire” shall have the same meaning as provided in section 4(17) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-303(17)).

“(3) “Public vehicle inspection officer” shall have the same meaning as provided in section 4(19) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-303(19)).

“Sec. 806c. Aggravated assault on a public vehicle inspection officer.

“(a) A person commits the offense of aggravated assault on a public vehicle inspection officer if that person assaults, impedes, intimidates, or interferes with a public vehicle inspection officer while that officer is engaged in or on account of the performance of his or her official duties, and:

“(1) By any means, that person knowingly or purposely causes serious bodily injury to the public vehicle inspection officer; or

“(2) Under circumstances manifesting extreme indifference to human life, that person intentionally or knowingly engages in conduct which creates a grave risk of serious bodily injury to another person, and thereby causes serious bodily injury.

“(b) A person who violates this section shall be guilty of a felony and, upon conviction, shall:

“(1) Be fined not more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, passed on 2nd reading on November 1, 2012 (Enrolled version of Bill 19-214), or be imprisoned for not more than 10 years, or both; and

“(2) Have his or her license or licenses for operating a public vehicle-for-hire, as required by the Commission pursuant the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-301 *et seq.*), revoked without further administrative action by the Commission.

“(c) It is neither justifiable nor excusable for a person to use force to resist the civil

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enforcement authority exercised by an individual believed to be a public vehicle inspection officer, whether or not such enforcement action is lawful.

“(d) For the purposes of this section, the term:

“(1) “Commission” shall have the same meaning as provided in section 4(6) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-303(6)).

“(2) “Public vehicle-for-hire” shall have the same meaning as provided in section 4(17) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-303(17)).

“(3) “Public vehicle inspection officer” shall have the same meaning as provided in section 4(19) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-303(19)).

Sec. 402. The District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-301 *et seq.*), is amended by adding new section 20o to read as follows:

“Sec. 20o. Fleeing from a public vehicle inspection officer in a public vehicle-for-hire.

“(a)(1) An operator of a public vehicle-for-hire who knowingly fails or refuses to bring the public vehicle-for-hire to an immediate stop, or who flees or attempts to elude a public vehicle inspection officer, following the public vehicle inspection officer’s signal to bring the public vehicle-for-hire to a stop, shall be fined not more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, passed on 2nd reading on November 1, 2012 (Enrolled version of Bill 19-214), or be imprisoned for not more than 180 days.

“(2) An operator of a public vehicle for hire who violates paragraph (1) of this subsection and while doing so drives the public vehicle-for-hire in a manner that would constitute reckless driving under section 9 of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1123; D.C. Official Code § 50-2201.04(b)), or cause property damage or bodily injury, shall be fined not more than the amount set forth in section 1001 of the Criminal Fine Proportionality Amendment Act of 2012, passed on 2nd reading on November 1, 2012 (Enrolled version of Bill 19-214), or be imprisoned for not more than 5 years.

“(b) It is an affirmative defense under this section if the operator of a public vehicle-for-hire can show, by a preponderance of the evidence, that his or her failure to stop immediately was based upon a reasonable belief that his or her personal safety or the safety of passengers was at risk. In determining whether the operator has met this burden, the court may consider the following factors:

“(1) The time and location of the event;

“(2) Whether the public vehicle inspection officer was in a vehicle clearly

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identifiable by its markings, or if unmarked, was occupied by a public vehicle inspection officer in uniform or displaying a badge or other sign of authority;

“(3) The conduct of the public vehicle-for-hire operator while being followed by the public vehicle inspection officer;

“(4) Whether the public vehicle-for-hire operator stopped at the first available reasonably lighted or populated area; and

“(5) Any other factor the court considers relevant.

“(c)(1)(A) The Chairperson of the Commission shall suspend the license or licenses for operating a public vehicle-for-hire, as required by the Commission pursuant to this act, of a person convicted under subsection (a)(1) of this section for a minimum of 30 days, but no more than 180 days, without further administrative action by the Commission.

“(B) The Chairperson of the Commission may suspend the license or licenses for operating a public vehicle-for-hire, as required by the Commission pursuant to this act, of a person convicted under subsection (a)(2) of this section for a period of no more than one year without further administrative action by the Commission.

“(2) A suspension of a public vehicle-for-hire operator’s license or licenses under paragraph (1) of this subsection for a person who has been sentenced to a term of imprisonment for a violation of subsection (a)(1) or (2) of this section shall begin following the person’s release from incarceration.”.

TITLE V -- MISCELLANEOUS PROVISIONS

Sec. 501. Section 1052(b) of Title X-A of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective June 10, 1998 (D.C. Law 12-124; D.C. Official Code § 1-610.52(b)), is amended as follows:

(a) Strike the phrase “paragraph (2)” wherever it appears and insert the phrase “paragraphs (2) and (2A)” in its place.

(b) A new paragraph (2A) is added to read as follows:

“(2A) Notwithstanding paragraph (1) of this subsection, the Council approves the existing level of compensation for the position of Director of the Department of Forensic Sciences Max M. Houck (\$203,125).”.

(c) Paragraph (4) is amended by striking the phrase “February 24, 2012.” and inserting the phrase “February 24, 2012, or in the position of Director of the Department of Forensic Sciences, who takes office after the effective date of the Omnibus Criminal Code Amendments Act of 2012, passed on 2nd reading on December 18, 2012 (Enrolled version of Bill 19-645).” in its place.

502. The District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.02*et seq.*), is amended by adding a new section 524 to read as follows:

"Sec. 524. Council approval of massage therapy regulations directed at licensed

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therapist facilities.

“There shall be no regulation of massage therapy that is directed at regulating a licensed therapist facility without affirmative approval by the Council of the District of Columbia.”.

Sec. 503. The Motor Vehicle Theft Prevention Act of 2008, effective July 18, 2008 (D.C. Law 17-197; D.C. Official Code § 3-1351 *et seq.*), is amended as follows:

(a) Section 5 (D.C. Official Code § 3-1354) is amended as follows:

(1) Paragraph (8) is amended by striking the phrase “, subject to the financial limit in section 9(a)(2)”.

(2) Paragraph (9) is amended by striking the phrase “funds in the Fund to effectuate the purposes of the Commission, except as restricted by section 9” and inserting the phrase “its authorized budget to effectuate the purposes of the Commission” in its place.

(3) Paragraph (10) is amended by striking the phrase “for deposit into the Fund”.

(4) Paragraph (11) is amended by striking the phrase “provided, that non-monetary contributions shall not be included in the costs of administration limitation prescribed by section 9(a)(2);”.

(b) Section 8 (D.C. Official Code § 3-1357) is repealed.

(c) Section 9 (D.C. Official Code § 3-1358) is amended as follows:

(1) The heading is amended to read as follows:

“Sec. 9. Use of budget authority.”.

(2) Subsection (a) is amended as follows:

(A) The lead-in language is amended by striking the phrase “expend money in the Fund” and inserting the phrase “use its budget authority” in its place.

(B) Paragraph (2) is amended by striking the phrase “and the Fund; provided, that money expended for this purpose shall not in any fiscal year exceed 15% of the amount of funds deposited in the Fund during the same fiscal year”.

Sec. 504. The Access to Justice Initiative Establishment Act of 2010, effective September 24, 2010 (D.C. Law 18-223; D.C. Official Code § 4-1701.01 *et seq.*), is amended as follows:

(a) Section 101(9) (D.C. Official Code § 4-1701.01(9)) is amended to read as follows:

“(9) “Eligible employment” means those areas of legal practice certified by the Administrator to serve the public interest, including employment with legal organizations that qualify for District of Columbia Bar Foundation funding, but does not include employment with the District of Columbia government or federal government or with or as the Administrator; and

“(A) Working not less than 35 hours per week where such hours are fully

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devoted to eligible employment, hereinafter “full-time employment”; or

“(B) Working not less than 17 hours per week where such hours are fully devoted to eligible employment, hereinafter “part-time employment.”.

(b) Section 403(a)(4) (D.C. Official Code § 4-1704.03(a)(4)) is amended by striking the phrase “\$65,000” and inserting the phrase “\$75,000, subject to a 3% annual increase beginning on October 1, 2013;”.

Sec. 505. Section 205 of the Omnibus Police Reform Amendment Act of 2000, effective October 4, 2000 (D.C. Law 13-160; D.C. Official Code § 5-107.04), is amended to read as follows:

“Sec. 205. Duties of the Board.

“(a) The Board shall establish minimum application and appointment criteria for the Metropolitan Police Department that include the following:

“(1) That an applicant be a citizen of the United States at the time of application;

“(2) Age limits;

“(3) Height and weight guidelines;

“(4) Physical fitness and health standards;

“(5) Psychological fitness and health standards;

“(6) The completion of a criminal background investigation;

“(7) The consideration to be placed on an applicant's participation in court-ordered community supervision or probation for any criminal offense at any time from application through appointment;

“(8) The consideration to be placed on an applicant's criminal history, including juvenile records;

“(9) The completion of a background investigation;

“(10) Military discharge classification information; and

“(11) Information on prior service with the Metropolitan Police Department.

“(b) Notwithstanding the minimum standards established by the Board in accordance with subsection (a) of this section, the Chief of Police may deny employment to any applicant based upon conduct occurring while the applicant was a minor if, considering the totality of the circumstances, the Chief of Police determines that the applicant has not displayed the good moral character or integrity necessary to perform the duties of a sworn member of the Metropolitan Police Department.

“(c) Each applicant selected for appointment as a sworn member of the Metropolitan Police Department shall successfully complete an initial training program and initial firearms training program before deployment, including minimum requirements developed by the Board, unless the applicant receives a waiver pursuant to subsection (e) of this section.

“(d) The Board shall determine minimum requirements for the initial training

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program and initial firearms training program for Metropolitan Police Department recruits, including the appropriate sequence, content, and duration of each program, and:

“(1) The minimum number of hours required;

“(2) If and under what circumstances the initial training program will include temporary deployment of the applicant before regular deployment as a sworn member; and

“(3) The subjects to be included as part of every applicant's initial training.

“(e) The Chief of Police may modify or waive the initial training program and initial firearms training program requirements for either of the following:

“(1) Any applicant who is a former sworn member of the Metropolitan Police Department who has been separated from employment with the Metropolitan Police Department for less than 3 years; or

“(2) Any former member of a federal, state, or local law enforcement agency who has completed training similar to the Metropolitan Police Department's initial training program and initial firearms training program and who has been separated from employment with a federal, state, or local law enforcement agency for less than 3 years.

“(f) The Board shall determine minimum requirements for a continuing education program for sworn members of the Metropolitan Police Department, including:

“(1) Requirements for a continuing education firearms training program; and

“(2) The appropriate consequence, including ineligibility for promotion, if a member fails to satisfy the continuing education requirement.

“(g) The Metropolitan Police Department may utilize the services of other law enforcement agencies or organizations engaged in the education and training of law enforcement personnel to satisfy any portion of the initial training program, the initial firearms training program, or the continuing education program pursuant to this section.

“(h) The Board shall establish the minimum requirements for any instructor of any component of the Metropolitan Police Department's initial training program, continuing education program, or firearms training program.

“(i) The Board shall establish minimum selection and training standards for members of the District of Columbia Housing Authority Police Department.

“(j) The Board shall also review and make recommendations to the Chief of Police, the Mayor, and the Council, regarding:

“(1) The Metropolitan Police Department's tuition assistance program;

“(2) The optimal probationary period for new members of the Metropolitan Police Department pursuant to subsection (q) of this section;

“(3) The issue of creating separate career tracks for patrol and investigations;

“(4) Minimum standards for continued level of physical fitness for sworn members of the Metropolitan Police Department; and

“(5) The Metropolitan Police Department Reserve Corps program's training and standards.

“(k) The minimum standards set by the Board pursuant to subsections (a), (d), (f),

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and (h) of this section shall not preclude the Metropolitan Police Department from establishing higher standards, including standards regarding its application, initial training, and continuing education programs at the department.

“(l) The minimum standards set by the Board pursuant to subsection (i) of this section shall not preclude the District of Columbia Housing Authority Police Department from establishing higher standards.

“(m) Not later than December 31 of each calendar year, the Board, through the Chief of Police, shall deliver a report to the Mayor and the Council concerning the Metropolitan Police Department's initial training program, continuing education program, and firearms training program. The report shall include:

“(1) The number of:

“(A) Applicants who have successfully completed the application process;

“(B) Applicants who have completed the initial training program;

“(C) Sworn members who have completed the continuing education and firearms training programs;

“(2) An assessment of the Metropolitan Police Department's compliance with the Board's prescribed minimum standards for each of its application and training programs pursuant to this section;

“(3) Recommendations where the Board believes that the Metropolitan Police Department's current standards for applicants, initial training including firearms training, and continuing education can be improved; and

“(4) An overall assessment of the Metropolitan Police Department's current and planned recruiting efforts in light of public safety needs in the District.

“(n) The administrative work of the Board shall be carried out by members of the Metropolitan Police Department as appointed by the Chief of Police.

“(o) Any applicant who met the age requirement at the time of application and who was denied appointment on the basis of racial discrimination, as determined by the Director of the Office of Human Rights, may be appointed notwithstanding the applicant's age at the time of that determination.

“(p) Applications for appointment to the Metropolitan Police Department shall be made on forms furnished by the Metropolitan Police Department.

“(q) Appointments to the Metropolitan Police Department shall be for a probationary period to be determined by the Chief of Police. Continuation of service after the expiration of that period shall be dependent upon the conduct of the appointee and his or her capacity for the performance of the duties to which assigned, as indicated by reports of superior officers. The probationary period shall be an extension of the examination period.

“(r) If the Police and Fire Clinic shall find any probationer physically or mentally unfit to continue his or her duties, that probationer shall be required to appear before the Police and Firefighter's Retirement and Relief Board. That Board shall make any findings as

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are required pursuant to section 12(i) of the Policemen and Firemen's Retirement and Disability Act, approved September 1, 1916 (39 Stat. 718; D.C. Official Code § 5-713), and those findings shall be incorporated in a recommendation submitted to the Mayor.

“(s) Each police officer appointed shall maintain a level of physical fitness to be determined by the Chief of Police. The final determination with respect to inappropriate fitness levels shall be made by the Medical Director of the Police and Fire Clinic.

“(t)(1) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this section.

“(2) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, by resolution, within this 45-day review period, the proposed rules shall be deemed approved.”

Sec. 506. The Arson Investigators Amendment Act of 1998, effective March 26, 1999 (D.C. Law 12-176; D.C. Official Code § 5-417.01 *et seq.*), is amended by adding a new section 2a to read as follows:

“Sec. 2a. Compliance with fire code and occupancy requirements -- Authority, generally; authority to enter and examine; sanctions.

“(a) The Fire Chief, the Fire Marshal, or his or her authorized representative shall have the authority to enter upon or examine any area, building or premises, vehicle or other thing during normal business hours to inspect for compliance with the District fire code, or enter any building at any time when there is probable cause to believe that the premises may be overcrowded.

“(b) The Fire Chief, the Fire Marshal, or his or her authorized representative shall have the authority to sanction a restaurant or other public venue for failure to post a seating or occupancy capacity placard; provided, that no restaurant or public venue shall be liable for the resulting fine or penalty unless the Mayor has provided the seating or occupancy capacity placard to the owner of the premises.”

Sec. 507. Section 12(a)(1) of the Department of Forensic Sciences Establishment Act of 2011, effective August 17, 2011 (D.C. Law 19-18; D.C. Official Code § 5-1501.11(a)(1)), is amended by striking the word “journals” and inserting the phrase “journals, and who are not currently employed by the Department or by a law enforcement laboratory or agency” in its place.

Sec. 508. Section 202(b)(1) of the Homeland Security, Risk Reduction, and Preparedness Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-262; D.C. Official Code § 7-2271.02(b)(1)), is amended to read to as follows:

“(b)(1) Commission members shall be nominated by the Mayor and

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confirmed by the Council for terms of 3 years, in accordance with section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)), except that initially 4 Commission members shall be appointed to a 3-year term and 3 Commission members shall be appointed to a 2-year term.”

Sec. 509. Section 16-914 of the District of Columbia Official Code is amended by adding a new subsection (k) to read as follows:

“(k) Notwithstanding any other provision of this section, no person shall be granted legal custody or physical custody of, or visitation with, a child if the person has been convicted of first degree sexual abuse, second degree sexual abuse, or child sexual abuse, and the child was conceived as a result of that violation. Nothing in this subsection shall be construed as abrogating or limiting the responsibility of a person described herein to pay child support.”

Sec. 510. Section 2(2) of the Innocence Protection Act of 2001, effective May 17, 2002 (D.C. Law 14-134; D.C. Official Code § 22-4131(2)), is amended as follows:

(a) Strike the phrase “a sexual assault forensic examination kit, semen, vaginal fluid, blood, saliva, visible skin tissue, or hair” and insert the phrase “the contents of a sexual assault examination kit, bodily fluids (including, but not limited to, blood, semen, saliva, and vaginal fluid), hair, skin tissue, fingernail scrapings, bone, or other human DNA source matter” in its place.

(b) Add the following sentence at the end:

“This definition applies equally to material that is present on other evidence, including, but not limited to, clothing, ligatures, bedding or other household material, drinking cups, or cigarettes, and to material that is recovered from evidence and thereafter maintained separately from that evidence, including, but not limited to, on a slide, on a swab, in cuttings, or in scrapings.”

Sec. 511. Section 47-2811(b) of the District of Columbia Official Code is repealed.

Sec. 512. Section 7b of the District of Columbia Traffic Act, 1925, signed by the Mayor on October 23, 2012 (D.C. Act 19-487; 59 DCR 12507), is amended as follows:

(a) Subsection (a)(3)(A) is amended by striking the phrase “name address” and inserting the phrase “name, address” in its place.

(b) Subsection (b) is amended as follows:

(1) Strike the phrase “obtained by the Department of Motor Vehicles” and insert the phrase “obtained by the Department” in its place.

(2) Strike the phrase “motor-vehicle” and insert the phrase “motor vehicle” in its place.

(c) Subsection (c) is amended as follows:

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(1) Paragraph (4)(A) is amended to read as follows:

“(A) For use by a person involved in the accident and listed on the accident report;”.

(2) Paragraph (12) is amended by striking the phrase “revoked by the person who is the subject of the motor vehicle record” and inserting the phrase “revoked by the person who is the subject of the motor vehicle record or accident report” in its place.

(d) Subsection (e) is amended as follows:

(1) Strike the phrase “of Motor Vehicles” wherever it appears.

(2) Paragraph (1) is amended by striking the phrase “made confidential and prohibited from disclosure” and inserting the phrase “prohibited from disclosure by subsection (b) of this section” in its place.

(3) Paragraph (2) is amended as follows:

(i) Strike the phrase “However only authorized” and insert the phrase “Authorized” in its place.

(ii) Strike the phrase “pursuant to” and insert the phrase “only in accordance with” in its place.

(d) Subsection (f) is amended by striking the phrase “of Motor Vehicles.”

Sec. 513. Section 401 of An Act To provide for the more effective prevention, detection, and punishment of crime in the District of Columbia, approved June 29, 1953 (67 Stat. 101; D.C. Official Code § 3-801), is repealed.

Sec. 514. The Criminal Justice Supervisory Board Act of 1978, effective September 13, 1978 (D.C. Law 2-107; D.C. Official Code § 3-901 *et seq.*), is repealed.

Sec. 515. Chapter 10 of Title 28 of the District of Columbia Municipal Regulations is repealed.

TITLE VI -- FISCAL IMPACT AND EFFECTIVE DATE

Sec. 601. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

Sec. 602. Effective date.

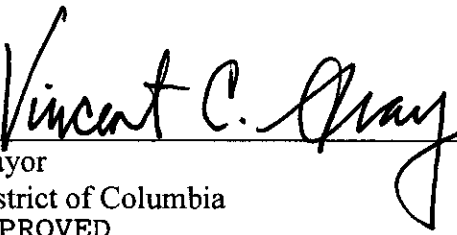
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act,

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approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 11, 2013

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AN ACT
D.C. ACT 19-678

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 11, 2013

Codification
 District of Colum
 Official Code
 2001 Edition

Summer 2013

To amend Title 25 of the District of Columbia Official Code to define the term “miniature”; to define the term “growler”; to clarify what constitutes a nude performance; to define the term “overconcentration”; to increase the wine alcohol percentage that can be sold by retailer’s class B licensees from 14% to 15%; to allow full-service grocery stores to sell resealed containers of beer for off-premises consumption; to allow retailer’s class C and D licensees to purchase from retailer’s class A licensees when District wholesalers are closed; to make it a secondary tier violation to knowingly allow a patron to exit an on-premises establishment with an open container of alcohol; to allow caterers that also hold an on-premises retailer’s license to purchase alcoholic beverages from a wholesaler for all catered events; to allow licensed establishments to store books and records on the premises electronically; to clarify that the holder of a temporary license can receive alcoholic beverage deliveries from wholesalers up to 48 hours before an ABC Board-approved weekend or holiday event; to clarify which on-premises retail licensees are eligible to apply for a brew pub permit; to allow brew pubs to sell resealed containers of beer to consumers for off-premises consumption; to create a new wine pub permit that allows for the manufacturing and the sale of wine to consumers; to require ABRA to establish a new licensee orientation class; to place a moratorium on establishments that permit nude dancing in Ward 5; to permit the issuance of additional retailer’s class B licenses if the total number of retailer’s class B licenses is less than 300; to clarify the required elements of a security plan; to require notice of certain license applications to citizens associations registered with ABRA; to require that a protest hearing for new license applications be held within 75 days of the end of the protest hearing; to require the Board to issue written decisions for new applications within 60 days after the close of the record; to change the term “voluntary agreement” to “settlement agreement”; to clarify the settlement agreement enforcement penalties available to the Board; to clarify the conditions that are permitted to be in a settlement agreement; to create a stipulated license fee; to delete the term “new owner license renewal”; to require citizens associations to include applicants in the notice of a scheduled meeting to consider a protest and to reduce the time period of the notice from 10 days to 7 days; to require ABRA and the Board to provide certain

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documents to ANCs and citizens associations upon request; to clarify the impact of a settlement agreement submitted by an affected ANC when a protest of a license application is pending; to allow Sunday alcoholic beverage sales by retailer's class A licensees; to eliminate the requirement that on-premises licensees register, pay a registration fee, and provided notice to the Board and the Police for an additional hour of alcohol sales due to daylight saving time on the 2nd Sunday of March starting in Fiscal Year 2014; to clarify that the prohibition of noise from licensed premises does not apply to heating, ventilation, and air conditioning devices; to require ABRA to maintain a complaint program; to require that windows and doors of an establishment remain open or closed, as they were at the time a complaint was made, prior to the determination of a noise violation; to establish as an affirmative defense to a violation of the requirement that a licensee refuse to sell alcohol beverages to a person without valid identification that the person served was 21 years of age or older; to create a fee for maintaining licenses in safekeeping; to require that an investigation be conducted before taking summary enforcement action against a licensee; to allow the Board to fine a licensee \$30,000 and suspend a license for 30 consecutive days for a 4th primary tier violation within 4 years and revoke the license after the 5th violation; to make it a primary tier violation to sell or serve alcoholic beverages on a suspended or expired license or a license held in safekeeping; to make it a primary tier violation for failure to comply with the statutory food requirements; to require ABRA to maintain a noise complaint line and track noise complaints; to amend section 47-2002 of the District of Columbia Official Code to increase the amount of sales tax revenue used to fund the Reimbursable Detail Subsidy Program from \$460,000 annually to \$1,170,000 annually; and to amend Title 23 of the District of Columbia Municipal Regulations to allow a licensee to store books and records on- premise electronically, and to conform the regulations with the new provision allowing certain caterers to purchase alcoholic beverages from a wholesaler.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Omnibus Alcoholic Beverage Regulation Amendment Act of 2012".

Sec. 2. Title 25 of the District of Columbia Official Code is amended as follows:

(a) Section 25-101 is amended as follows:

(1) Paragraph (15A) is amended to read as follows:

"(15A) "Cooperative agreement" shall have the same meaning, and is synonymous with, settlement agreement."

(2) A new paragraph (24B) is added to read as follows:

"(24B) "Growler" means a reusable container that is capable of holding up to

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64 fluid ounces of beer and is designed to be filled and sealed on premises for consumption off premises.”.

(3) A new paragraph (32A) is added to read as follows:

“(32A) “Miniature” means an alcoholic beverage in a sealed container holding 50 milliliters or less.”.

(4) Paragraph (34) is amended by striking the word “buttocks” and inserting the word “anus” in its place.

(5) A new paragraph (35A) is added to read as follows:

“(35A) “Overconcentration” means the existence of several licensed establishments that adversely affect a specific locality, section, or portion of the District of Columbia, including consideration of the appropriateness standards under § 25-313(b).”.

(6) Paragraph (49)(B) is amended by striking the phrase “14% alcohol” and inserting the phrase “15% alcohol” in its place.

(7) Paragraph (54) is repealed.

(8) Paragraph (56) is amended by striking the phrase “not more than 14%” and inserting the phrase “not more than 15%” in its place.

(b) The heading to subchapter II of Chapter 1 is amended by striking the word “Licenses” and inserting the phrase “Licenses and Permits” in its place.

(c) Section 25-112 is amended as follows:

(1) Subsection (a) is amended by striking the period at the end and inserting the phrase “, including the sale of growlers by the holder of an off-premise retailer licensee, class A, notwithstanding any other provision or restrictions of this title.” in its place.

(2) A new subsection (a-1) is added to read as follows:

“(a-1)(1) An off-premises retailer’s licensee, class B, that is also a full-service grocery store meeting the requirements of § 25-331(d), may also sell beer in growlers.

“(2)(A) The Board shall promulgate rules within 45 days of the effective date of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012, effective January 14, 2013 (D.C. Act 19-597)(“Emergency Act”), to provide a definition of “full-service grocery store” as used in this title.

“(B) Notwithstanding subchapter III of Chapter 3 of this title, the Board shall not issue any new full-service grocery store, off-premises retailer’s class B licenses for 45 days from the effective date of the Emergency Act or until the rulemaking required by this paragraph has been promulgated and approved by the Council, whichever date is sooner.

“(C) Upon approval by the Council of the regulations promulgated by the Board pursuant to this paragraph, the Council shall incorporate the definition of “full-service grocery store” into §25-101.”.

(3) Subsection (b) is amended by striking the phrase “shall not be opened,” and inserting the phrase “shall not be opened, except for the sale of growlers,” in its place.

(4) Subsection (c) is amended as follows:

(A) Paragraph (1) is amended by striking the word “and” at the end.

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(B) A new paragraph (2A) is added to read as follows:

“(2A) Licensees under a temporary license or an on-premises retailer’s license, class C or D, if the alcoholic beverages were purchased by the off-premises retailer from a licensee under a wholesaler license or brought into the District under a validly issued import permit; provided, that the sales to an on-premises retailer’s class C and D license, may be made only on a Saturday, Sunday, or holiday during the hours when licensees under a wholesaler’s license are closed; provided further, that an on-premises retailer’s licensee shall maintain on the licensed premises for 3 years either a receipt or invoice containing:

“(A) The date of the purchase;

“(B) The quantity and brand name of the alcoholic beverages purchased; and

“(C) The name of the on-premises licensee to which the sale was made; and”.

(d) Section 25-113 is amended as follows:

(1) Subsection (a)(2)(A) is amended as follows:

(A) The existing language is designated as sub-subparagraph (i).

(B) A new sub-subparagraph (ii) is added to read as follows:

“(ii) It shall be a secondary tier violation for an on-premises retailer’s class C or D licensee, to knowingly allow a patron to exit the licensed establishment with an alcoholic beverage in an open container.”.

(2) Subsection (i)(5) is amended by adding a new sentence at the end to read as follows: “A caterer that also holds an on-premises retailer’s license may purchase alcoholic beverages from wholesalers for use at catered events regardless of the number of persons attending the event.”.

(3) Subsection (j)(3)(B) is amended by adding 2 new sentences at the end to read as follows: “A licensee may also store its books and records on the premises electronically. The records stored on the premises electronically shall be made immediately available at the request of ABRA staff.”.

(e) Section 25-115 is amended by adding a new subsection (f) to read as follows:

“(f) The holder of a temporary license shall be permitted to receive deliveries from a wholesaler up to 48 hours before a Board-approved event occurring on a Saturday, Sunday, or holiday. The alcoholic beverages delivered pursuant to this subsection shall not be consumed until the date and time of the event and shall be stored in a secure location.”.

(f) Section 25-117 is amended as follows:

(1) Subsection (a) is amended by striking the phrase “restaurant or tavern” wherever it appears and inserting the phrase “restaurant, tavern, multipurpose facility, hotel, or nightclub” in its place.

(2) A new subsection (a-1) is added to read as follows:

“(a-1) A brew pub permit shall authorize the licensee to sell beer in growlers.”.

(3) Subsection (b) is amended by striking the phrase “restaurant or tavern”

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wherever it appears and inserting the phrase “restaurant, tavern, multipurpose facility, hotel, or nightclub” in its place.

(4) Subsection (c) is amended as follows:

(A) The lead-in language is amended by striking the word “void” and inserting the phrase “cancelled or revoked” in its place.

(B) Paragraph (1) is amended by striking the phrase “restaurant or tavern” wherever it appears and inserting the phrase “restaurant, tavern, multipurpose facility, hotel, or nightclub” in its place.

(g) A new section 25-124 is added to read as follows:

“§ 25-124. Wine pub permit requirements and qualifications.

“(a) A wine pub permit shall authorize the licensee to manufacture wine at one location from grapes or fruit transported from an area that produces wine to the licensed restaurant, tavern, multipurpose facility, hotel, or nightclub for on-premises consumption and for sale to licensed wholesalers for the purpose of resale to other licensees.

“(b) A wine pub permit shall be issued only to the licensee under an on-premises restaurant, tavern, multipurpose facility, hotel, or nightclub license, class C or D, in conjunction with the issuance of an on-premises restaurant, tavern, multipurpose facility, hotel, or nightclub license, class C or D.

“(c) The location used to manufacture wine shall be on or immediately adjacent to the restaurant, tavern, multipurpose facility, hotel, or nightclub licensed to the wine pub owner in accordance with subsection (b) of this section.

“(d) The holder of a wine pub permit may also sell wine to patrons in sealed bottles or other closed containers for off-premises consumption.

“(e) The minimum annual fee of the wine pub permit shall be \$5,000.

“(f) A wine pub permit shall be cancelled or revoked if:

“(1) The restaurant, tavern, multipurpose facility, hotel, or nightclub ceases to be operated as a restaurant, tavern, multipurpose facility, hotel, or nightclub; or

“(2) The licensee’s on-premises retailer’s license, class C or D, is revoked or cancelled.

“(g) A wine pub permit shall be automatically suspended whenever and for the same period that the licensee’s retailer’s license, class C or D, is suspended.”.

(h) A new section 25-212 is added to read as follows:

“§ 25-212. New licensee and general public orientation class.

“ABRA shall establish a new licensee orientation class that shall be available to licensees and the public at no charge. The class curriculum shall include the following:

“(1) A review of relevant provisions contained in both this title and Title 23 of the District of Columbia Municipal Regulations;

“(2) Noise abatement and sound management; and

“(3) How to work proactively with Advisory Neighborhood Commissions, neighborhood and business groups, and residents.”.

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(i) Section 25-301 is amended by adding a new subsection (a-1) to read as follows:

“(a-1) To determine whether an applicant for a new license meets the criteria of subsection (a)(1) of this section, the Board shall examine records, covering the last 10 years from the date of application, maintained by ABRA regarding prior violations of the District’s alcohol laws and regulations by the applicant or establishments owned or controlled by the applicant.”.

(j) Section 25-315(b)(1) is amended by striking the phrase “voluntary agreement” and inserting the phrase “settlement agreement” in its place.

(k) Section 25-332(a) is amended to read as follows:

“(a)(1) After the effective date of the Omnibus Alcoholic Beverage Regulation Amendment Act of 2012, passed on 2nd reading on December 18, 2012 (Enrolled version of Bill 19-824), the Board may issue new off-premises retailer’s class B licenses, if the Board finds that the number of retailer’s class B licenses is less than the quota set forth in § 25-331(b). A condition of the license shall be that the sale of alcoholic beverages for consumption off-premises shall constitute no more than 25% of the total volume of gross receipts of the licensee on an annual basis.

“(2) No more than one retailer’s license, class B, issued under this subsection shall be issued to the same applicant or to an individual with an ownership interest in another license issued under this subsection.

“(3) The issuance of new retailer’s licenses, class B, under this subsection shall be audited by ABRA and subject to the reporting requirements set forth in § 25-112(e).”.

(l) Section 25-374 is amended as follows:

(1) A new subsection (a-1) is added to read as follows:

“(a-1) On or after January 1, 2013, a class CN license with a nude dancing endorsement under § 25-371(b) shall not be transferred into Ward 5, as defined by section 4 of the Redistricting Procedure Act of 1981, effective March 6, 1982 (D.C. Law 4-87; D.C. Official Code § 1-1041.03); provided, that this section shall not prohibit the transfer of an existing CN license with a nude dancing endorsement within Ward 5.”.

(2) Subsection (f) is amended by striking the phrase “voluntary agreement” and inserting the phrase “settlement agreement” in its place.

(m) Section 25-402 is amended as follows:

(1) Subsection (d) is redesignated as paragraph (1) of subsection (d).

(2) Subsection (e) is redesignated as paragraph (2) of subsection (d).

(3) Subsection (f) is redesignated as paragraph (3) of subsection (d).

(4) The new redesignated subsection (d)(3) is amended to read as follows:

“(3) A written security plan filed pursuant to this subsection shall include at least the following elements:

“(A) A statement on the type of security training provided for, and completed by, establishment personnel, including:

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“(i) Conflict resolution training;
 “(ii) Procedures for handling violent incidents, other emergencies, and calling the Metropolitan Police Department; and
 “(iii) Procedures for crowd control and preventing overcrowding;
 “(B) The establishment's procedures for permitting patrons to enter;
 “(C) A description of how security personnel are stationed inside and in front of the establishment and the number and location of cameras used by the establishment;
 “(D) Procedures in place to prevent patrons from becoming intoxicated and ensuring that only persons 21 years or older are served alcohol;
 “(E) A description of how the establishment maintains an incident log;
 “(F) The establishment’s procedures for preserving a crime scene; and
 “(G) In the event that cameras are required to be installed by the Board or in accordance with the establishment’s security plan, the establishment shall ensure the following:
 “(i) The cameras utilized by the establishment are operational;
 “(ii) Any footage of a crime of violence or a crime involving a gun is maintained for a minimum of 30 days; and
 “(iii) The security footage is made available within 48 hours upon the request of ABRA or the Metropolitan Police Department.”.

(n) Section 25-403 is amended as follows:

- (1) Subsection (e) is redesignated as paragraph (1) of subsection (e).
- (2) Subsection (f) is redesignated as paragraph (2) of subsection (e).
- (3) Subsection (g) is redesignated as paragraph (3) of subsection (e).
- (4) The new redesignated subsection (e)(3) is amended to read as follows:

“(3) A written security plan filed pursuant to this subsection shall include at least the following elements:

“(A) A statement on the type of security training provided for, and completed by, establishment personnel, including:

“(i) Conflict resolution training;
 “(ii) Procedures for handling violent incidents, other emergencies, and calling the Metropolitan Police Department; and
 “(iii) Procedures for crowd control and preventing overcrowding;

“(B) The establishment's procedures for permitting patrons to enter;

“(C) A description of how security personnel are stationed inside and in front of the establishment and the number and location of cameras used by the establishment;

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“(D) Procedures in place to prevent patrons from becoming intoxicated and ensuring that only persons 21 years or older are served alcohol;

“(E) A description of how the establishment maintains an incident log;

“(F) The establishment’s procedures for preserving a crime scene; and

“(G) In the event that cameras are required to be installed by the Board or in accordance with the establishment’s security plan, the establishment shall ensure the following:

“(i) The cameras utilized by the establishment are operational;

“(ii) Any footage of a crime of violence or a crime involving a gun is maintained for a minimum of 30 days; and

“(iii) The security footage is made available within 48 hours upon the request of ABRA or the Metropolitan Police Department.”.

(o) Section 25-421(a) is amended as follows:

(1) Paragraph (4) is amended by striking the period at the end and inserting the phrase “; and” in its place.

(2) A new paragraph (5) is added to read as follows:

“(5) A citizens association meeting the requirements of § 25-601(3); provided, that the citizens association has, at least 30 days before the Board’s receipt of the application, registered with ABRA by providing a copy of its charter, and an e-mail or other electronic address in a form consistent with ABRA’s procedures.”.

“(p) Section 25-432(b)(1) is amended by inserting the phrase “, to be held within 75 days of the end of the protest period, for new license applications” after the phrase “protest hearing”.

“(q) Section 25-433(c) is amended by adding the sentence “For new license applications, the Board shall issue its written decisions accompanied by findings of fact and conclusions of law within 60 days after the close of the record.” after the sentence that reads “Within 90 days after the close of the record, the Board shall issue its written decision accompanied by findings of fact and conclusions of law.”.

(r) Section 25-446 is amended as follows:

(1) The section heading is amended to read as follows:

“§ 25-446. Settlement agreements; approval process; penalties for violations.”.

(2) Strike the phrase “voluntary agreement” wherever it appears and insert the phrase “settlement agreement” in its place.

(3) Subsection (b) is amended as follows:

(A) The existing language is designated as paragraph (1).

(B) New paragraphs (2) and (3) are added to read as follows:

“(2) Except as provided in § 25-446.02, all provisions of a settlement agreement approved by the Board shall be enforceable by ABRA or the Board.

“(3) A settlement agreement not approved by the Board shall not be enforced

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by ABRA or the Board.”.

(4) Subsection (e) is amended to read as follows:

“(e) Upon a determination that a licensee has violated a settlement agreement, the Board shall penalize the licensee according to the provisions set forth for violations of a license in Chapter 8 of this title.”.

(s) New sections 25-446.01 and 25-446.02 are added to read as follows:

“§ 25-446.01. Settlement agreements – enforceable provisions.

“A settlement agreement enforceable by the Board under this subchapter may include:

“(1) Provisions allowing or prohibiting entertainment and the hours that entertainment would be allowed;

“(2) Specific methods to mitigate the level of noise outside the establishment, including:

“(A) Sound attenuation elements;

“(B) Requiring that the doors and windows of the establishment remain closed (except for ingress and egress) during hours of entertainment;

“(C) Restricting indoor entertainment to a specific area of the establishment; and

“(D)(i) Specification of physical attributes to mitigate noise emanating from an outdoor facility.

“(ii) For the purposes of this subparagraph, the term “physical attributes” may include architectural features, sound barriers, and placement of speakers;

“(3) Descriptions of reasonable efforts that the applicant or existing licensee will take to control litter and other debris in the immediate area surrounding the establishment, including:

“(A) The frequency that the applicant or existing licensee will monitor the area;

“(B) The days and time that the applicant or existing licensee will remove trash; and

“(C) The efforts to be made by the licensee to limit rat and vermin infestation;

“(4) Descriptions of parking arrangements, including the use of valet service contingent on proper permitting by the District Department of Transportation;

“(5) Requirements that the applicant or existing licensee maintain an incident log and that the incident log be made available to ABRA and the Board, upon request;

“(6) A notice to cure provision;

“(7) Restrictions on hours of operation and sales and service for a new or existing licensee’s facilities;

“(8) Descriptions of how the licensee will address specific issues in determining the hours of operation, including:

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“(A) The licensee’s history of previous violations;

“(B) The proximity of the establishment to residences; and

“(C) The hours of operation and sales and service of alcohol for other existing licensed establishments in the area;

“(9) Restrictions on the utilization of floors, occupancy, and the number of seats for existing licensees and address specific issues in determining occupancy issues, including:

“(A) The licensee’s history of previous violations;

“(B) The proximity of the establishment to residences; and

“(C) The hours of operation and sales and service of alcohol for other existing licensed establishments in the area; and

“(10) Stipulations that the establishment will comply with existing District statutes and regulations, or will comply with privileges granted by ABRA or any other District agency.

“§ 25-446.02. Settlement agreements – unenforceable provisions.

“The Board shall not enforce the following provisions if included in a settlement agreement covered by this subchapter:

“(1) Restraints on the ability of an applicant or existing licensee to operate its business, including:

“(A) Requirements that the ANC or other community members approve future ownership changes;

“(B) Requirements that the ANC or other community members be notified of intent to transfer ownership;

“(C) Prohibitions against the applicant or existing licensee applying for a change in license class;

“(D) A requirement that the applicant or existing licensee change the license class before selling the license;

“(E) Requirements that prohibit the licensee from applying for changes to licensed operation procedures, including applications for summer gardens, sidewalk cafes, rooftop decks, entertainment endorsements, and changes of hours:

“(F) Mandates regarding specific brands of alcohol or pricing for alcohol;

“(G) Restrictions on the age of patrons; and

“(H) Requirements that the applicant or existing licensee use a specific company for services;

“(2) Statements that create administrative procedures in addition to those required by ABRA or any other District agency;

“(3) A requirement that the applicant or existing licensee attend ANC meetings or other community meetings;

“(4) Statements or requirements that the applicant or existing licensee:

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“(A) Provide money, special considerations, or other financial benefits to the community;

“(B) Join any group; or

“(C) Hire local individuals; and

“(5) Any requirement that contracts, incident logs, or similar documents, be made available to the ANC or other community groups or members.”.

(t) Section 25-501 is amended by adding a new subsection (f) to read as follows:

“(f) The minimum fee for a stipulated license issued by the Board pursuant to section 200 of Title 23 of the District of Columbia Municipal Regulations (23 DCMR § 200) shall be \$100.”.

(u) Section 25-601 is amended as follows:

(1) The lead-in language is amended by striking the phrase “a new owner license renewal,”.

(2) Paragraph (3)(B) is amended by striking the phrase “meeting being given at least 10 days before the date of the meeting.” and inserting the phrase “meeting given to the voting body and the applicant at least 7 days before the date of the meeting;” in its place.

(v) A new section 25-601.01 is added to read as follows:

“§ 25-601.01. Certain documents to be made available.

“An ANC, or citizens association meeting the requirements of § 25-601(3), may request from ABRA or the Board a copy of a contract to which a licensee is a party, an incident log kept by a licensee, or similar document, if obtained by ABRA or the Board pursuant to this title.”.

(w) Section 25-609 is amended as follows:

(1) The existing language is designated as subsection (a).

(2) The newly designated subsection (a) is amended as follows:

(A) Strike the phrase “if any,” and insert the phrase “if any, and serve a copy upon the applicant or licensee,” in its place.

(B) Strike the phrase “Whether or not” and insert the word “Whether” in its place.

(C) Strike the phrase “The applicant” and insert the phrase “The applicant or licensee” in its place.

(3) A new subsection (b) is added to read as follows:

“(b) In the event that an affected ANC submits a settlement agreement to the Board on a protested license application, the Board, upon its approval of the settlement agreement, shall dismiss any protest of a group of no fewer than 5 residents or property owners meeting the requirements of § 25-601(2). The Board shall not dismiss a protest filed by another affected ANC or by a citizens association meeting the requirements of § 25-601(3) upon the Board’s approval of an ANC’s settlement agreement submission.”.

(x) Section 25-711(a) is amended by striking the phrase “voluntary agreement”

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wherever it appears and inserting the phrase "settlement agreement" in its place.

(y) Section 25-722(b) is amended by striking the phrase "class B" and inserting the phrase "class A or B" in its place."

(z) Section 25-723 is amended as follows:

(1) Subsection (a) is amended by striking the phrase "closed miniature containers of alcoholic beverages" and inserting the phrase "miniatures as defined in § 25-101(32A)" in its place.

(2) Subsection (d) is amended by adding a new paragraph (4) to read as follows:

"(4) This subsection shall expire on September 30, 2013."

(3) A new subsection (f) is added to read as follows:

"(f)(1) During the beginning of daylight saving time under § 28-2711, on the 2nd Sunday of March of each year, a licensee under an on-premises retailer's license may sell and serve alcoholic beverages between 3:00 a.m. and 4:00 a.m.

"(2) A licensee operating under an on-premises retailer's license shall not be required to obtain Board approval to sell or serve alcoholic beverages in accordance with paragraph (1) of this subsection.

"(3) This subsection shall apply as of October 1, 2013."

(aa) Section 25-724 is amended by striking the phrase "voluntary agreement" and inserting the phrase "settlement agreement" in its place.

(bb) Section 25-725 is amended as follows:

(1) Subsection (b) is amended as follows:

(A) Paragraph (3) is amended by striking the word "or" at the end.

(B) Paragraph (4) is amended by striking the period at the end and inserting the phrase "; or" in its place.

(C) A new paragraph (5) is added to read as follows:

"(5) Heating, ventilation, and air conditioning devices."

(2) New subsections (d) and (e) are added to read as follows:

"(d)(1) ABRA shall maintain a complaint program to receive noise complaints by phone, email, and fax. The complaint program shall be staffed by an ABRA employee until at least one hour after the end time for the legal sale of alcoholic beverages as set forth in § 25-723.

"(2) ABRA shall keep records regarding noise complaints and record the following information at the time the complaint is made:

"(A) The time and date of the complaint;

"(B) The name and address of the establishment that is the subject of the complaint;

"(C) The name and address of the complainant, if available;

"(D) The nature of the noise complaint; and

"(E) Whether the complaint was substantiated by ABRA.

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“(3) Upon receipt of a noise complaint, ABRA shall attempt to contact the establishment by phone or in person and inform the ABC manager on-duty that a noise complaint has been received and describe the nature of the complaint.

“(4) ABRA shall notify the licensee of the complaint by e-mail, phone, or registered mail within 72 hours of receiving the complaint. ABRA shall notify the licensee of the results of any investigation that may result in a show cause hearing within 90 days as required by § 25-832.

“(e) The windows and doors of an establishment from which noise can be heard shall remain open or closed, as they were at the time the complaint was made, in order for an ABRA investigator or Metropolitan Police Department officer to determine whether a violation of subsection (a) of this section exists. The ABRA investigator shall have the authority to direct that windows and doors be closed or opened.”.

(cc) Section 25-783 is amended by adding a new subsection (e) to read as follows:

“(e) An affirmative defense to a violation of subsection (a) of this section shall be that the person was at the time of the violation 21 years of age or older.”.

(dd) Section 25-791 is amended by adding a new subsection (c-1) to read as follows:

“(c-1)(1) Except as proved by paragraph (3) of this subsection, the Board shall assess licenses in safekeeping a fee of 25% of the annual license fee for every 6 months that the license remains in safekeeping. The initial 6-month fee shall be paid by the licensee at the time the license is placed in safekeeping. Each additional 6-month safekeeping fee shall be paid in advance by the licensee.

“(2) After 4 consecutive 6-month periods of safekeeping, the safekeeping fee shall be 50% of the annual license fee for every 6 months that the license remains in safekeeping.

“(3) The safekeeping fee required by this subsection shall not apply to a licensee serving a suspension.”.

(ee) Section 25-823(6) is amended by striking the phrase “voluntary agreement” and inserting the phrase “settlement agreement” in its place.

(ff) Section 25-826(b) is amended by striking the phrase “The Board may summarily” and inserting the phrase word “The Board, after investigation, may summarily” in its place.

(gg) Section 25-830 is amended as follows:

(1) Subsection (c) is amended as follows:

(A) Paragraph (3) is amended to read as follows:

“(3) A licensee found in violation of a primary tier offense for the 4th time within 4 years shall have the license either revoked or fined no less than \$30,000 and suspended for 30 consecutive days.”.

(B) A new paragraph (4) is added to read as follows:

“(4) A licensee found in violation of a primary tier offense for the 5th time

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within 4 years shall have the license revoked.”.

(2) New subsections (i) and (j) are added to read as follows:

“(i) It shall be a primary tier violation for a licensee to sell or serve alcohol on a suspended or expired license or a license held in safekeeping.

“(j) It shall be a primary tier violation for a licensee to fail to comply with either of the statutory food requirements in § 25-113(b)(3)(B).”.

Sec. 3. Conforming amendments.

(a) Section 47-2002(b) of the District of Columbia Official Code is amended by striking the phrase “\$460,000 annually” and inserting the phrase “\$1,170,000 annually” in its place.

(b) Title 23 of the District of Columbia Municipal Regulations is amended as follows:

(1) Section 1208 is amended by adding a new subsection 1208.6 to read as follows:

“1208.6 The holder of a Retailer’s, Manufacturer’s, or Wholesaler’s license may store books and records on the licensed premises electronically; provided, that the records are made immediately available at the request of ABRA staff.”.

(2) Subsection 2002.1 is amended by adding the phrase “, other than one also holding an on-premises retailer’s license under D.C. Official Code § 25-113(a)-(e),” after the phrase “licensed under § 2000.1,”.

(3) A new subsection 2002.3 is added to read as follows:

“2002.3 Any caterer that also holds an on-premises retailer’s license under D.C. Official Code § 25-113(a)-(e) shall be exempt from the provisions of this section.”.

(4) Subsection 2003.1 is amended by adding a new sentence at the end to read as follows: “Specific approval shall not be required for any caterer that also holds an on-premises retailer’s license under D.C. Official Code § 25-113 (a)-(e).”.

Sec. 4. Fiscal impact statement.

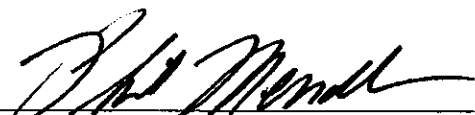
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

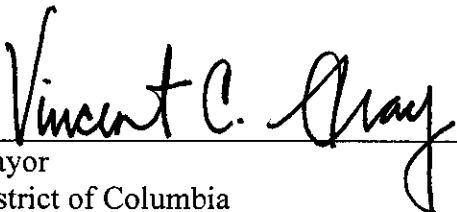
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act,

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approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 11, 2013

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AN ACT
D.C. ACT 19-679

Codification
District of Colum
Official Code
2001 Edition

Summer 2013

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
FEBRUARY 15, 2013

To amend the Fire and Police Medical Leave and Limited Duty Amendment Act of 2004 to create a presumption that certain diseases or conditions are associated with the occupational duties of Fire and Emergency Medical Services Department personnel, and that personnel diagnosed with such diseases or conditions are entitled to the same rights and benefits that accompany a performance-of-duty injury or occupational disease.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Fire and Emergency Medical Services Employee Presumptive Disability Amendment Act of 2012”.

Sec. 2. The Fire and Police Medical Leave and Limited Duty Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-631 *et seq.*), is amended by adding a new Subtitle D to read as follows:

“SUBTITLE D. FIRE AND EMERGENCY MEDICAL SERVICES EMPLOYEE
PRESUMPTIVE DISABILITY

“Sec. 651. Definitions.

“For the purposes of this subtitle, the term:

“(1) “Department” means the Fire and Emergency Medical Services Department.

“(2) “Director” means the medical services officer for the Fire and Emergency Medical Services Department.

“(3) “Documented” means the member or EMS employee gave notice to the Fire and Emergency Medical Services Department, in writing, of his or her occupational exposure to blood or bodily fluids.

“(4) “EMS employee” means a person that qualifies as an “emergency medical services personnel” as defined by section 2(7) of the Emergency Medical Services Act of 2008, effective March 25, 2009 (D.C. Law 17-357; D.C. Official Code § 7-2341.01(7)), is employed by the Fire and Emergency Medical Services Department, and is not a sworn member of the Department.

“(5) “Full range of duties” shall have the same meaning as provided in

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section 621(5).

“(6) “Member ” means a sworn member of the Fire and Emergency Medical Services Department.

“(7) “Pre-employment physical examination” means a physical examination that:

“(A) Is the same as or similar to the physical examination required under section 721 of the Police and Fire Minimum Standards Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-451);

“(B) Is conducted before making any claims under this title that rely on a presumption in this subtitle;

“(C) Is conducted by a physician or physicians at the Police and Fire Clinic or as prescribed by the District; and

“(D) Includes such appropriate laboratory and other diagnostic studies prescribed by the Police and Fire Clinic.

“Sec. 652. Presumption as to disability or death from heart disease, hypertension, or respiratory disease.

“(a) A member shall be presumed to have a performance-of-duty injury or illness that is covered by Subtitle B of Title VI of this act , section 12 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes, approved September 1, 1916 (39 Stat. 718; D.C. Official Code § 5-701 *passim*), sections 1 through 3 of An Act

To provide for the payment of the cost of medical, surgical, hospital, or related health care services provided certain retired, disabled officers and members of the Metropolitan Police force of the District of Columbia, the Fire Department of the District of Columbia, the United States Park Police force, the Executive Protective Service, and the United States Secret Service, and for other purposes, approved August 16, 1971 (85 Stat. 341; D.C. Official Code § 5-708), sections 204(c), 205(c), 206(b), 208(b), and 209(a)(2) of An Act To establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits, approved November 17, 1979 (93 Stat. 866; D.C. Official Code §§ 5-711, 5-715, 5-702, 5-705, and 5-719, respectively), section 122 of An Act To increase compensation for District of Columbia policemen, firemen, and teachers; to increase annuities payable to retired teachers in the District of Columbia; to establish an equitable tax on real property in the District of Columbia; to provide for additional revenue for the District of Columbia; and for other purposes, approved September 3, 1974 (88 Stat. 1041; D.C. Official Code § 5-722), sections 4,6, and 7 of the Policemen and Firemen’s Retirement and Disability Act amendments of 1957, approved August 21, 1957 (71 Stat. 399; D.C. Official Code § 5-731 *et seq.*), section 1 of An Act Making appropriations for the

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government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1936, and for other purposes, approved June 14, 1935 (49 Stat. 358; D.C. Official Code § 5-741), An Act To credit active service in the military or naval forces of the United States in determining eligibility for and the amount of benefits from the policemen and firemen's relief fund, District of Columbia, approved July 21, 1947 (61 Stat. 398; D.C. Official Code § 5-742), section 6 of An Act To fix the salaries of officers and members of the Metropolitan police force and the fire department of the District of Columbia, approved July 1, 1930 (46 Stat. 841; D.C. Official Code § 5-743), section 3 of An Act to provide increased pensions for widows and children of deceased members and retired members of the Police Department and the Fire Department of the District of Columbia, approved August 4, 1949 (63 Stat. 566; D.C. Official Code § 5-744), sections 301 and 302 of An Act To adjust the salaries of officers and members of the Metropolitan Police force, the United States Park Police, the White House Police, and the Fire Department of the District of Columbia, and for other purposes, approved June 20, 1953 (67 Stat. 75; D.C. Official Code §§ 7-745 and 7-746); sections 1 and 2 of An Act To extend benefits of the Policemen and Firemen's Retirement and Disability Act Amendments of 1957 to widows and surviving children of former members of the Metropolitan Police force, the Fire Department of the District of Columbia, the United States Park Police force, the White House Police force, or the United States Secret Service Division, who were retired or who died in the service of any such organization prior to the effective date of such amendments, approved August 24, 1962 (76 Stat. 402; D.C. Official Code § 5-747), section 2 of Retired Police Officer Redeployment Act of 1992, effective September 29, 1992 (D.C. Law 9-163; D.C. Official Code § 5-761), and section 2 of the Retired Police Officer Public Schools Security Personnel Deployment Amendment Act of 1994, effective July 23, 1994 (D.C. Law 10-136; D.C. Official Code § 5-762), unless such presumption is overcome by a preponderance of evidence to the contrary or the member is disqualified from the presumption pursuant to section 655, if:

“(1) The member has been diagnosed with heart disease, hypertension, or respiratory disease;

“(2) The heart disease, hypertension, or respiratory disease results in the member's inability to perform the full range of duties or in death;

“(3) The member has undergone a pre-employment physical examination and the member was found, at the time of the examination, to be free of the performance-of-duty injury or illness underlying the presumption provided for in this subsection; and

“(4) The member, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

“(b) An EMS employee shall be presumed to have an occupational disease suffered in the line of duty that is covered by the District of Columbia Workers' Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501 *et seq.*), unless such presumption is overcome by a preponderance of evidence to the contrary or the

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member is disqualified from the presumption pursuant to section 655, if:

“(1) The EMS employee has been diagnosed with heart disease, hypertension, or respiratory disease;

“(2) The heart disease, hypertension, or respiratory disease results in the EMS employee’s disability, as defined by section 2(8) of the District of Columbia Workers’ Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501(8)), or in death;

“(3) The EMS employee has undergone a pre-employment physical examination and the EMS employee was found, at the time of the examination, to be free of the occupational disease underlying the presumption provided for in this subsection; and

“(4) The EMS employee, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

“Sec. 653. Presumption as to disability or death from cancer.

“(a) A member shall be presumed to have a performance-of-duty injury or illness that is covered by Subtitle B of Title VI of this act , section 12 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes, approved September 1, 1916 (39 Stat. 718; D.C. Official Code § 5-701 *passim*), sections 1 through 3 of An Act To provide for the payment of the cost of medical, surgical, hospital, or related health care services provided certain retired, disabled officers and members of the Metropolitan Police force of the District of Columbia, the Fire Department of the District of Columbia, the United States Park Police force, the Executive Protective Service, and the United States Secret Service, and for other purposes, approved August 16, 1971(85 Stat. 341; D.C. Official Code § 5-708), sections 204(c), 205(c), 206(b), 208(b), and 209(a)(2) of An Act To establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits, approved November 17, 1979 (93 Stat. 866; D.C. Official Code §§ 5-711, 5-715, 5-702,5-705, and 5-719, respectively), section 122 of An Act To increase compensation for District of Columbia policemen, firemen, and teachers; to increase annuities payable to retired teachers in the District of Columbia; to establish an equitable tax on real property in the District of Columbia; to provide for additional revenue for the District of Columbia; and for other purposes, approved September 3, 1974 (88 Stat. 1041; D.C. Official Code § 5-722), sections 4,6, and 7 of the Policemen and Firemen’s Retirement and Disability Act amendments of 1957, approved August 21, 1957 (71 Stat. 399;D.C. Official Code § 5-731 *et seq.*), section 1 of An Act Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1936, and for other purposes, approved June 14, 1935 (49 Stat. 358; D.C. Official Code § 5-741), An Act To credit active service in the military or naval forces of the United States in determining eligibility for and the amount of benefits from the policemen and firemen's relief fund,

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District of Columbia, approved July 21, 1947 (61 Stat. 398; D.C. Official Code § 5-742), section 6 of An Act To fix the salaries of officers and members of the Metropolitan police force and the fire department of the District of Columbia, approved July 1, 1930 (46 Stat. 841; D.C. Official Code § 5-743), section 3 of An Act to provide increased pensions for widows and children of deceased members and retired members of the Police Department and the Fire Department of the District of Columbia, approved August 4, 1949 (63 Stat. 566; D.C. Official Code § 5-744), sections 301 and 302 of An Act To adjust the salaries of officers and members of the Metropolitan Police force, the United States Park Police, the White House Police, and the Fire Department of the District of Columbia, and for other purposes, approved June 20, 1953 (67 Stat. 75; D.C. Official Code §§ 7-745 and 7-746), sections 1 and 2 of An Act To extend benefits of the Policemen and Firemen's Retirement and Disability Act Amendments of 1957 to widows and surviving children of former members of the Metropolitan Police force, the Fire Department of the District of Columbia, the United States Park Police force, the White House Police force, or the United States Secret Service Division, who were retired or who died in the service of any such organization prior to the effective date of such amendments, approved August 24, 1962 (76 Stat. 402; D.C. Official Code § 5-747), section 2 of Retired Police Officer Redeployment Act of 1992, effective September 29, 1992 (D.C. Law 9-163; D.C. Official Code § 5-761), and section 2 of the Retired Police Officer Public Schools Security Personnel Deployment Amendment Act of 1994, effective July 23, 1994 (D.C. Law 10-136; D.C. Official Code § 5-762), unless such presumption is overcome by a preponderance of evidence to the contrary or the member is disqualified from the presumption pursuant to section 655, if:

“(1) The member has been diagnosed with leukemia or breast, ovarian, pancreatic, prostate, rectal, testicular, or throat cancer, and that member has been in contact with or exposed to a toxic substance while in the line of duty that is associated with an increased risk of leukemia or cancer;

“(2) The member has completed at least 10 years of service with the Department;

“(3) The leukemia or cancer results in the members' inability to perform the full range of duties or in death;

“(4) The member has undergone a pre-employment physical examination and the member was found, at the time of the examination, to be free of the performance-of-duty injury or illness underlying the presumption provided for in this subsection; and

“(5) The member, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

“(b) An EMS employee shall be presumed to have an occupational disease suffered in the line of duty that is covered by the District of Columbia Workers' Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501 *et seq.*), unless such presumption is overcome by a preponderance of evidence to the contrary or the member is disqualified from the presumption pursuant to section 655, if:

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“(1) The EMS employee has been diagnosed with leukemia or breast, ovarian, pancreatic, prostate, rectal, testicular, or throat cancer, and that EMS employee has been in contact with or exposed to a toxic substance while in the line of duty that is associated with an increased risk of leukemia or cancer;

“(2) The EMS employee has completed at least 10 years of service with the Department;

“(3) The leukemia or cancer results in the EMS employee’s disability, as defined by section 2(8) of the District of Columbia Workers’ Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501(8)), or in death;

“(4) The EMS employee has undergone a pre-employment physical examination and the EMS employee was found, at the time of the examination, to be free of the occupational disease underlying the presumption provided for in this subsection; and

“(5) The EMS employee, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

“Sec. 654. Presumption as to disability or death from infectious disease.

“(a) A member shall be presumed to have a performance-of-duty injury or illness that is covered by Subtitle B of Title VI of this act , section 12 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for fiscal year ending June thirtieth, nineteen hundred and seventeen, and for other purposes, approved September 1, 1916 (39 Stat. 718; D.C. Official Code § 5-701 *passim*), sections 1 through 3 of An Act To provide for the payment of the cost of medical, surgical, hospital, or related health care services provided certain retired, disabled officers and members of the Metropolitan Police force of the District of Columbia, the Fire Department of the District of Columbia, the United States Park Police force, the Executive Protective Service, and the United States Secret Service, and for other purposes, approved August 16, 1971(85 Stat. 341; D.C. Official Code § 5-708), sections 204(c), 205(c), 206(b), 208(b), and 209(a)(2) of An Act To establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits, approved November 17, 1979 (93 Stat. 866; D.C. Official Code §§ 5-711, 5-715, 5-702,5-705, and 5-719, respectively), section 122 of An Act To increase compensation for District of Columbia policemen, firemen, and teachers; to increase annuities payable to retired teachers in the District of Columbia; to establish an equitable tax on real property in the District of Columbia; to provide for additional revenue for the District of Columbia; and for other purposes, approved September 3, 1974 (88 Stat. 1041; D.C. Official Code § 5-722), sections 4,6, and 7 of the Policemen and Firemen’s Retirement and Disability Act amendments of 1957, approved August 21, 1957 (71 Stat. 399;D.C. Official Code § 5-731 *et seq.*), section 1 of An Act Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1936, and for other purposes, approved June 14, 1935 (49 Stat. 358; D.C. Official Code § 5-741), An Act To

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credit active service in the military or naval forces of the United States in determining eligibility for and the amount of benefits from the policemen and firemen's relief fund, District of Columbia, approved July 21, 1947 (61 Stat. 398; D.C. Official Code § 5-742), section 6 of An Act To fix the salaries of officers and members of the Metropolitan police force and the fire department of the District of Columbia, approved July 1, 1930 (46 Stat. 841; D.C. Official Code § 5-743), section 3 of An Act to provide increased pensions for widows and children of deceased members and retired members of the Police Department and the Fire Department of the District of Columbia, approved August 4, 1949 (63 Stat. 566; D.C. Official Code § 5-744), sections 301 and 302 of An Act To adjust the salaries of officers and members of the Metropolitan Police force, the United States Park Police, the White House Police, and the Fire Department of the District of Columbia, and for other purposes, approved June 20, 1953 (67 Stat. 75; D.C. Official Code §§ 7-745 and 7-746), sections 1 and 2 of An Act To extend benefits of the Policemen and Firemen's Retirement and Disability Act Amendments of 1957 to widows and surviving children of former members of the Metropolitan Police force, the Fire Department of the District of Columbia, the United States Park Police force, the White House Police force, or the United States Secret Service Division, who were retired or who died in the service of any such organization prior to the effective date of such amendments, approved August 24, 1962 (76 Stat. 402; D.C. Official Code § 5-747), section 2 of Retired Police Officer Redeployment Act of 1992, effective September 29, 1992 (D.C. Law 9-163; D.C. Official Code § 5-761), and section 2 of the Retired Police Officer Public Schools Security Personnel Deployment Amendment Act of 1994, effective July 23, 1994 (D.C. Law 10-136; D.C. Official Code § 5-762), unless such presumption is overcome by a preponderance of evidence to the contrary or the member is disqualified from the presumption pursuant to section 655, if:

“(1) The member has been diagnosed with hepatitis, meningococcal meningitis, tuberculosis, or human immunodeficiency virus (“HIV”);

“(2) The member has had a documented exposure to blood or bodily fluids during the performance of job duties;

“(3) The hepatitis, meningococcal meningitis, tuberculosis, or HIV results in the member's inability to perform the full range of duties or in death;

“(4) The member has undergone a pre-employment physical examination and the was found, at the time of the examination, to be free of the performance-of-duty injury or illness underlying the presumption provided for in this subsection; and

“(5) The member, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

“(b) An EMS employee shall be presumed to have an occupation disease suffered in the line of duty that is covered by the District of Columbia Workers' Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501 *et seq.*), unless such presumption is overcome by a preponderance of evidence to the contrary or the member is disqualified from the presumption pursuant to section 655, if:

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“(1) The EMS employee has been diagnosed with hepatitis, meningococcal meningitis, tuberculosis, or human immunodeficiency virus (“HIV”);

“(2) The EMS employee has had a documented exposure to blood or bodily fluids during the performance of job duties;

“(3) The hepatitis, meningococcal meningitis, tuberculosis, or HIV results in the EMS employee’s disability, as defined by section 2(8) of the District of Columbia Workers’ Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501(8)), or in death;

“(4) The EMS employee has undergone a pre-employment physical examination and the EMS employee was found, at the time of the examination, to be free of the occupational disease underlying the presumption provided for in this subsection; and

“(5) The EMS employee, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

“Sec. 655. Disqualification from presumption as to disability or death.

“A member or an EMS employee shall be disqualified from a presumption under this subtitle if:

“(1) Any standard, medically recognized vaccine or other form of immunization or prophylaxis exists for the prevention of any injury or illness for which a presumption is established under this subtitle, if medically indicated by the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service;

“(2) The member or EMS employee is required by the Department to undergo the immunization or prophylaxis, unless the member or EMS employee has a written declaration from his or her physician stating that the immunization or prophylaxis would pose a significant risk to the person’s health; and

“(3) The member or EMS employee has failed to or refused to undergo such immunization or prophylaxis.

“Sec. 656. Applicability.

“This subtitle shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.”.

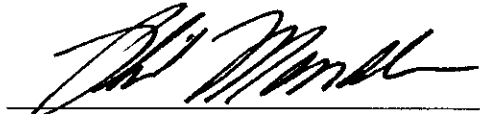
Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

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Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia

UNSIGNED

Mayor
District of Columbia

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AN ACT
D.C. ACT 19-680

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
FEBRUARY 15, 2013

Codification
District of
Columbia
Official Code
2001 Edition

Summer 2013

To amend An Act For the retirement of public-school teachers in the District of Columbia to comply with applicable tax qualification provisions of the Internal Revenue Code for governmental retirement plans.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Retirement of Public-School Teachers Omnibus Amendment Act of 2012".

Sec. 2. An Act For the retirement of public-school teachers in the District of Columbia, approved August 7, 1946 (60 Stat. 875; D.C. Official Code § 38-2021.01 *et seq.*), is amended as follows:

- (a) Section 1 (D.C. Official Code § 38-2021.01) is amended as follows:
 - (1) The heading of the section is amended by striking the phrase “; purchase of annuity”.
 - (2) Subsection (b) is repealed.
 - (3) New subsections (c), (d), and (e) are added to read as follows:
 - “(c) Amounts deducted and withheld from the annual salary of each teacher shall be:
 - "(1) Picked up by the public schools of the District of Columbia, as described in section 414(h)(2) of the Internal Revenue Code;
 - "(2) Deducted and withheld from the annual salary of the teachers as salary reduction contributions;
 - "(3) Paid by the public schools of the District of Columbia to the Custodian of Retirement Funds, as defined in section 102(6) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D. C. Official Code § 1-702(6)); and
 - "(4) Made a part of the teacher’s annuity benefit.
 - “(d) Notwithstanding any provisions of this act to the contrary, the amounts contributed under this section shall be fully (100%) vested.
 - “(e) Notwithstanding any provisions of this act to the contrary, upon the employer's

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request, a contribution that was made by a mistake of fact shall be returned to the employer by the trustee within one year after the payment of the contribution. A portion of a contribution returned pursuant to this section shall be adjusted to reflect earnings or gains. Notwithstanding any provisions of this act to the contrary, the right or claim of a participant or beneficiary to an asset of the trust or a benefit under this act shall be subject to and limited by the provisions of this subsection.”.

(b) Section 3 (D.C. Official Code § 38-2021.03) is amended by adding a new subsection (c-1) to read as follows:

“(c-1) A teacher who completes 5 years of eligible service shall be 100% vested.”.

(c) Section 4(d) (D.C. Official Code § 38-2021.04(d)) is amended to read as follows:

“(d) In cases where the annuity is discontinued under the provisions of this section, as much of the annuity payments as would have been provided by an annuity whose actuarial value at the time of retirement was equal to the contributions accumulated with interest shall be charged against the teacher's individual account and, unless the teacher shall become reemployed in a position covered under the Teachers' Retirement Program established pursuant to the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), the teacher shall be considered as having been separated from the service for other than retirement purposes and entitled to the benefits set forth in section 9.”.

(d) Section 5 (D.C. Official Code § 38-2021.05) is amended by adding a new subsection (f) to read as follows:

“(f) Each year, the District of Columbia Retirement Board shall set the applicable interest rate, mortality table, and cost-of-living factor to be used in the determination of actuarial equivalents or for other pertinent benefit calculations under the provisions of this act.”.

(e) A new section 7a is added to read as follows:

"Sec. 7a. Required minimum distributions.

“(a) Distributions shall begin no later than the teacher's required beginning date, as defined in section 401(a)(9) of the Internal Revenue Code, and shall be made in accordance with all other requirements of section 401(a)(9) of the Internal Revenue Code. The provisions of this section shall apply for the purposes of determining minimum required distributions under section 401(a)(9) of the Internal Revenue Code and take precedence over any inconsistent provisions of this act; provided, that these provisions are intended solely to reflect the requirements of section 401(a)(9) of the Internal Revenue Code and accompanying Treasury regulations and are not intended to provide or expand, and shall not be construed as providing or expanding, a benefit or distribution option not otherwise expressly provided for under the terms of this act. The provisions of this section shall apply only to the extent required under section 401(a)(9) of the Internal Revenue Code as applied to a governmental plan, and if any special rules for governmental plans are not set forth in this section, these special rules are incorporated by reference and shall for all purposes be deemed a part of this act.

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"(b)(1) The teacher's entire interest shall be distributed, or begin to be distributed, to the teacher no later than April 1 following the later of the calendar year in which the teacher attains age 70 ½ or the calendar year in which the teacher retires or terminates employment (the "required beginning date").

"(2) If the teacher dies before distributions begin, the teacher's entire interest shall be distributed, or shall begin to be distributed, no later than as follows:

"(A) If the teacher's surviving spouse is the sole designated beneficiary, distributions to the surviving spouse shall begin by December 31 of the calendar year immediately following the calendar year in which the teacher died, or by December 31 of the calendar year in which the teacher would have attained age 70½, if later;

"(B) If the teacher's surviving spouse is not the sole designated beneficiary, distributions to the designated beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the teacher died;

"(C) If there is no designated beneficiary as of September 30 of the year following the year of the teacher's death, the teacher's entire interest shall be distributed by December 31 of the calendar year of the 5th anniversary of the teacher's death;

"(D) If the teacher's surviving spouse is the sole designated beneficiary and the surviving spouse dies after the teacher but before distributions to the surviving spouse begin, subparagraph (A) of this paragraph shall not apply, and subparagraphs (B) and (C) of this paragraph shall apply as if the surviving spouse were the teacher. For the purposes of this paragraph and subsection (d) of this section, distributions are considered to begin on the teacher's required beginning date or, if this subparagraph applies, the date distributions to the surviving spouse are required to begin under subparagraph (A) of this paragraph. If annuity payments to the teacher irrevocably commence before the teacher's required beginning date or to the teacher's surviving spouse before the date distributions to the surviving spouse are required to begin under subparagraph (A) of this paragraph, the date distributions are considered to begin is the date distributions actually commence.

"(3) Unless the teacher's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution, calendar year distributions shall be made in accordance with subsections (c) and (d) of this section. If the teacher's interest is distributed in the form of an annuity purchased from an insurance company, distributions under the annuity shall be made in accordance with the requirements of section 401(a)(9) of the Internal Revenue Code and applicable Treasury regulations. A part of the teacher's interest that is in the form of an individual account described in section 414(k) of the Internal Revenue Code shall be distributed in a manner satisfying the requirements of section 401(a)(9) of the Internal Revenue Code and the Treasury regulations that apply to individual accounts.

"(c)(1) The amount of the annuity is to be determined each year.

"(2) If the teacher's interest is paid in the form of annuity distributions, payments under the annuity shall satisfy the following requirements:

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"(A) The annuity distributions shall be paid in periodic payments made at intervals not longer than one year;

"(B) Payments shall either be non-increasing or increase only as follows:

"(i) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index based on prices of all items (the CPI-W) and issued by the Bureau of Labor Statistics;

"(ii) To provide cash refunds of employee contributions upon the teacher's death;

"(iii) To pay increased benefits that result from an amendment to this act.

"(3) The amount that must be distributed on or before the teacher's required beginning date or, if the teacher dies before distributions begin, the date distributions are required to begin under subsection (b)(2)(A) or (B) of this section, is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received (for example, bi-monthly, monthly, semi-annually, or annually). The teacher's benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the teacher's required beginning date.

"(4) Additional benefits accruing to the teacher in a calendar year after the first distribution calendar year shall be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which the amount accrues.

"(d) Amounts payable if a teacher dies before distribution begins are subject to the following requirements:

"(1) If the teacher dies before the date of distribution of his or her interest begins and there is a designated beneficiary, the teacher's entire interest shall be distributed, beginning no later than the time described in subsection (b)(2)(A) or (B) of this section, over the life of the designated beneficiary not exceeding either of the following:

"(A) Unless the benefit commenced is before the first distribution calendar year, the life expectancy of the designated beneficiary, determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the teacher's death; or

"(B) If the benefit commenced before the first distribution calendar year, the life expectancy of the designated beneficiary, determined using the beneficiary's age as of his or her birthday in the calendar year that begins before benefits commence;

"(2) If the teacher dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the teacher's death, distribution of the teacher's entire interest shall be completed by December 31 of the calendar year containing the 5th anniversary of the teacher's death; or

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"(3) If the teacher dies before the date distribution of the teacher's interest begins, the teacher's surviving spouse is the teacher's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subsection shall apply as if the surviving spouse were the teacher, except that the time by which distributions must begin shall be determined without regard to subsection (b)(2)(A) of this section."

(f) Section 8(a) (D.C. Official Code § 38-2021.08(a)) is amended to read as follows:

"(a) The years of service which form the basis for determining the amount of the annuity provided in section 5(a) shall be computed from the date of original appointment as a teacher in the public schools of the District of Columbia, including so much of any authorized leaves of absence without pay as does not exceed 6 months in the aggregate in a fiscal year, plus service credit that may be allowed under the provisions of this section. A teacher or former teacher who returns to duty after a period of separation is deemed, for the purpose of this section, to have been on a leave of absence without pay for that part of the period in which he or she was receiving benefits under subchapter I of 5 U.S.C. Chapter 81, or any earlier statute on which the subchapter is based. In computing an annuity under section 5(a), the total service of a teacher shall include days of unused sick leave credited to him. No deposit may be required for days of unused sick leave included in a teacher's total service under the preceding sentence. Days of unused sick leave shall not be counted in determining a teacher's average salary or his eligibility for an annuity. In computing the length of service of retiring teachers credit may be given, year for year, for:

"(1) Public school service or its equivalent outside the District of Columbia but not to exceed 10 years;

"(2) Continuous temporary service in the public schools of the District immediately before probationary appointment;

"(3) Service in the District government or the government of the United States allowable under subchapter III of 5 U.S.C. § 83;

"(4) Periods of honorable active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States (but not the National Guard except when ordered to active duty in the service of the United States) before the date of the separation upon which title to annuity is based; provided, that if a teacher is awarded retired pay on account of military service, the teacher's military service shall not be included unless the retired pay is awarded on account of a service-connected disability:

"(A) Incurred in combat with an enemy of the United States; or

"(B) Caused by an instrumentality of war and incurred in the line of duty during an enlistment or employment as provided in Veterans Regulation No. 1(a), part 1, paragraph 1, or is awarded under 10 U.S.C. § 12736;

"(5) Educational leaves of absence with part pay authorized by the Board of Education in accordance with sections 1201, 1202, and 1203 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-612.01, 1-612.02, and 1-612.03); and

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"(6) Continuous temporary service as an employ ee of a cafeteria or lunchroom operated in the public school buildings of the District of Columbia during a period before the date on which the cafeteria or lunchroom is placed under the Office of Central Management, Department of Food Services, District of Columbia, and immediately before appointment as a teacher in the public schools of the District of Columbia; provided, that portion of the annuity which results from credit for service allowable under paragraphs (1) and (3) of this subsection shall be reduced by the amount of any annuity that the retired teacher is entitled to receive under a federal, state, or municipal retirement or pension system with respect to the service, except that that portion of the annuity after reduction shall not be less than the annuity purchasable with the deposit that the teacher is required to make under the provisions of this section in order to obtain credit for such service; provided further, that no credit for service prescribed in this section, with the exception of periods of honorable service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States and all educational leaves of absence with part pay authorized by the Board of Education in accordance with sections 1201, 1202, and 1203 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective October 1, 1987 (D.C. Law 2-139; D.C. Official Code   1-612.01, 1-612.02, 1-612.03) , shall be given to a teacher until the teacher shall have deposited to the credit of the District of Columbia Teachers' Retirement Fund a sum equal to:

"(A) The accumulated contributions that the teacher would have had credited to the teacher's individual account if the service had been rendered on active duty in the public schools of the District of Columbia, the contributions to be based on the average annual salary of the class to which the teacher is appointed; and

"(B) Interest thereon computed in accordance with section 24(b); provided further, that contributions to the retirement fund made by a teacher on education leave with part pay shall be determined in accordance with the provisions of section 1, but otherwise no provision of this act shall be interpreted to deprive a teacher employed by the Board of Education of any rights or benefits allowable under sections 1201, 1202, and 1203 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code   1-612.01, 1-612.02, 1-612.03). If the teacher so elects, the teacher may deposit the required sum in the District of Columbia Teachers' Retirement Fund in monthly installments, upon making a claim with the District of Columbia Retirement Board. Notwithstanding any other provision to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Internal Revenue Code. Except as otherwise provided in this subsection, this section shall not be construed to allow any teacher more than one year's credit for all services rendered in any one fiscal year."

(g) Section 9 (D.C. Official Code   38-2021.09), is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Should a teacher to whom this act applies, after completing 5 years of eligible service and before becoming eligible for retirement, become separated from the service, the teacher may elect to receive a deferred annuity, computed as provided in section 5, beginning at the age of 62 years and terminating on the date of the teacher's death; provided, that a teacher

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who becomes separated from the public schools of the District of Columbia for other than retirement purposes and who does not elect to receive a deferred annuity as provided for in this section shall receive as soon as practicable after separation the refund of deductions, deposits, or redeposits; provided further, that no teacher who shall withdraw the amount of the teacher's deductions, deposits, or redeposits under this section shall, after reinstatement, be entitled to credit for previous service unless the teacher shall repay to the Custodian of Retirement Funds as defined in section 102(6) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D. C. Official Code § 1-702(6)), for deposit in the District of Columbia Teachers' Retirement Fund, established by section 123(a) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C Official Code § 1-713(a)), the amount withdrawn by him (including the interest thereon) plus interest computed in accordance with section 24(c); and provided further, that the amount required to be so deposited may be paid by the teacher, if he so elects, in any number of monthly installments, not exceeding 100."

(2) Subsection (b) is amended by adding a new paragraph (4) to read as follows:

"(4) In the event that a teacher to whom this act applies shall die after January 1, 2007, while performing qualified military service, the survivor or survivors of the teacher shall be entitled to receive any additional benefits provided under this act (other than benefit accruals relating to the period of qualified military service) as if the teacher resumed employment and then terminated employment on account of death."

(3) A new subsection (b-1) is added to read as follows:

"(b-1) Effective as of January 1, 2007, benefits payable under this act shall not be paid until at least 30 days, or a shorter period as may be permitted by law, but no more than 180 days after a teacher's receipt of required distribution notices and election forms pursuant to section 402(f) of the Internal Revenue Code. The notices must include a description of the teacher's right, if any, to defer receipt of a distribution, the consequences of failing to defer receipt of the distribution, the relative value of optional forms of benefit, and other information as may be required by applicable regulations and guidance."

(4) Subsection (c) is amended by adding a new paragraph (8) to read as follows:

"(8) The term "qualified military service" shall mean any military service in the uniformed services, as defined in 38 U.S.C. § 43, by a teacher, if the teacher is entitled to reemployment rights with respect to such military service, all within the meaning of section 414(u)(5) of the Internal Revenue Code."

(h) Section 13 (D.C. Official Code § 38-2021.13) is amended by adding a new paragraph at the end to read as follows:

"For the purposes of this Act, the term "Internal Revenue Code" or "Internal Revenue Code of 1986" means the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 *et seq.*)".

(i) Section 14 (D.C. Official Code § 38-2021.14) is repealed.

(j) A new section 15a (D.C. Official Code § 38-2021.15a) is added to read as follows:

"Sec. 15a. Disposition of forfeitures.

"Forfeitures in the Teacher's Retirement Fund shall not be applied to increase the annuity

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of a person hereunder, but rather, shall be applied to pay administrative expenses, if and as directed by the District of Columbia Retirement Board, or used to reduce the District's contributions.”.

(k) Section 17 (D.C. Official Code § 38-2021.17) is amended to read as follows:

“Sec. 17. Except as provided in the District of Columbia Spouse Equity Act of 1988, effective March 16, 1989 (D.C. Law 7-214; D.C. Official Code § 1-529.01 *et seq.*), none of the money mentioned in this act, including any assets of the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C. Official Code § 1-713(a)), shall be assignable, either in law or equity, or be subject to execution or levy by attachment, garnishment, or other legal process, except with respect to a domestic relations order that substantially meets all of the requirements of section 414(p) of the Internal Revenue Code, as determined solely by the District of Columbia Retirement Board.”.

(l) Section 18 (D.C. Official Code § 38-2021.18) is amended to read as follows:

“Sec. 18. Applicability.

“The provisions of this act shall constitute a defined benefit plan and a governmental plan, as described in section 414(d) of the Internal Revenue Code, which is intended to qualify under section 401(a) of the Internal Revenue Code. Notwithstanding anything to the contrary contained in this act, the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C. Official Code § 1-701 *et seq.*), or the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), the provisions of this act shall apply to and control the provision of any annuity payable. The provisions of this act shall apply to all teachers on the rolls of the public schools of the District who accrue service after June 30, 1997, under the Teachers' Retirement Program established pursuant to the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), if otherwise eligible.”.

(m) Section 24 (D.C. Official Code § 38-2021.24) is amended as follows:

(1) Redesignate section 24 as section 25.

(2) Subsection (a) is amended to read as follows:

“(a) An individual withdrawing a distribution under this act that constitutes an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code may elect, at the time and in the manner prescribed by the District of Columbia Retirement Board, and after receipt of proper notice, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan, within the meaning of section 402(c) of the Internal Revenue Code, in a direct rollover in accordance with section 401(a)(31) of the Internal Revenue Code. Any nontaxable distribution or portion thereof from a qualified plan may be directly rolled over tax-free to another qualified plan or a plan or annuity contract described in section 403(b) of the Internal Revenue Code, if separate accounting and other requirements are met pursuant to section 402(c)(2)(A) of the Internal Revenue Code.”.

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(3) Subsection (c) is amended by striking the phrase "contribution from:" in the lead-in language and inserting the phrase "contribution from an eligible retirement plan, including:" in its place.

(4) Subsection (d) is amended by striking the phrase "shall administer the plan" and inserting the phrase "shall administer this act" in its place.

(5) A new subsection (e) is added to read as follows:

"(e) For the purposes of this section, the term:

"(1) "Direct rollover" means a payment to the eligible retirement plan specified by the distributee described in section 402(e)(6) of the Internal Revenue Code.

"(2) "Distributee" means a teacher or former teacher. In addition, the teacher' or former teacher's surviving spouse is a distributee with regard to the interest of the spouse or former spouse. A nonspouse beneficiary of a deceased teacher is also a distributee for purposes of this section; provided, that, in the case of a nonspouse beneficiary, the direct rollover may be made only to an individual retirement account or annuity under section 408 of the Internal Revenue Code that is established on behalf of the nonspouse beneficiary and that will be treated as an inherited IRA pursuant to the provisions of section 402(c)(11) of the Internal Revenue Code. The determination of the extent to which a distribution to a nonspouse beneficiary is required under section 401(a)(9) of the Internal Revenue Code shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395.

"(3) "Eligible retirement plan" means:

"(A) An individual retirement account described in section 408(a) of the Internal Revenue Code, including a Roth IRA described in section 408A of the Internal Revenue Code;

"(B) An individual retirement annuity described in section 408(b) of the Internal Revenue Code, including a Roth IRA described in section 408A of the Internal Revenue Code;

"(C) A qualified trust described in section 401(a) of the Internal Revenue Code or an annuity plan described in section 403(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution;

"(D) An annuity contract described in section 403(b) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution; and

"(E) An eligible plan described in section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state, that accepts the distributee's eligible rollover distribution and agrees to account separately for amounts transferred into such plan from the arrangement described under this act. The foregoing definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relations order.

"(4) "Eligible rollover distribution," within the meaning of section 402(c) of the Internal Revenue Code, means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

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"(A) A distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; and

"(B) A distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code. A distribution to a nonspouse beneficiary under section 401(f)(2)(A) of the Internal Revenue Code is an eligible rollover distribution. A portion of the distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, the portion may be paid only to an individual retirement account or annuity described in section 408(a) or (b) of the Internal Revenue Code or to a qualified trust or annuity plan described in section 401(a) or 403(a) of the Internal Revenue Code or an annuity contract described in section 403(b) of the Internal Revenue Code if the trust or annuity plan or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible."

(n) Section 25 (D.C. Official Code § 38-2021.25) is amended as follows:

(1) Redesignate section 25 as section 26.

(2) The newly designated section 26 is amended to read as follows:

"Sec. 26. (a) Benefits and contributions under the provisions of this act shall not be computed with reference to any compensation that exceeds that maximum dollar amount permitted by section 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost-of-living.

"(b) Notwithstanding the foregoing provisions of this act to the contrary, benefits under this act are subject to the limitations imposed by section 415 of the Internal Revenue Code, as adjusted from time to time and, to that end, effective for limitation years beginning on or after January 1, 2008:

"(1)(A) To the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, and subject to the remainder of this subsection, the maximum monthly benefit to which any teacher may be entitled in any limitation year with respect to his or her accrued retirement benefit, as adjusted from time to time pursuant to section 21 (hereafter referred to as the "maximum benefit"), shall not exceed the defined benefit dollar limit (adjusted as provided in this subsection). In addition to the foregoing, to the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, and subject to this subsection), the maximum annual additions for any limitation year shall be equal to the lesser of:

"(i) The dollar limit on annual additions; or

"(ii) 100% of the teacher's remuneration.

"(B) The defined benefit dollar limit and the dollar limit on annual additions shall be adjusted, effective January 1 of each year, under section 415(d) of the Internal Revenue Code in such manner as the Secretary of the Treasury shall prescribe. The dollar limit as adjusted under section 415(d) of the Internal Revenue Code shall apply to limitation years ending with or within the calendar year for which the adjustment applies, but a teacher's benefits

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shall not reflect the adjusted limit before January 1 of that calendar year. To the extent that the monthly benefit payable to a teacher who has reached his or her termination date is limited by the application of this subsection, the limit shall be adjusted to reflect subsequent adjustments made in accordance with section 415(d) of the Internal Revenue Code, but the adjusted limit shall apply only to benefits payable on or after January 1 of the calendar year for which the adjustment applies.

"(2) Benefits shall be actuarially adjusted based upon the defined benefit dollar limit, as follows:

"(A) There shall be an adjustment for benefits payable in a form other than a straight life annuity as follows:

"(i) If a monthly benefit is payable in a form other than a straight life annuity, before applying the defined benefit dollar limit, the benefit shall be adjusted, in the manner described in sub-subparagraphs (ii) or (iii) of this subparagraph, to the actuarially equivalent straight life annuity that begins at the same time. No actuarial adjustment to the benefit shall be made for benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits), or in the case of a form of benefit not subject to section 417(e)(3) of the Internal Revenue Code, the inclusion of a feature under which a benefit increases automatically to the extent permitted to reflect cost-of-living adjustments and the increase, if any, in the defined benefit dollar limit under section 415(d) of the Internal Revenue Code.

"(ii) If the benefit of a teacher is paid in a form not subject to section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity (without regard to cost-of-living adjustments described in this subsection) is equal to the greater of the annual amount of the straight life annuity, if any, payable to the teacher commencing at the same time, or the annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the teacher's form of benefit, computed using a 5% interest rate and the applicable mortality designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code.

"(iii) If the benefit of a teacher is paid in a form subject to section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity is equal to the greatest of:

"(I) The annual amount of the straight life annuity having a commencement date that has the same actuarial present value as the teacher's form of benefit, computed using the interest rate and mortality table (or other tabular factor) specified in the definition of actuarial equivalent for adjusting benefits in the same form;

"(II) The annual amount of the straight life annuity commencing at the time that has the same actuarial present value as the teacher's form of benefit, computed using a 5.5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code; or

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"(III) The annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the teacher's form of benefit, computed using the applicable interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code, divided by 1.05.

"(iv) For the purposes of this subparagraph, whether a form of benefit is subject to section 417(e) of the Internal Revenue Code is determined without regard to the status of this act as a government plan as described in section 414(d) of the Internal Revenue Code.

"(B) There shall be an adjustment to benefits that commence before age 62 or after age 65 as follows:

"(i) If the benefit of a teacher begins before age 62, the defined benefit dollar limit applicable to the teacher at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limit applicable to the teacher at age 62 (adjusted for participation of fewer than 10 years, if applicable) computed using a 5% interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code. However, if the benefit provided under this act provides an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limit is the lesser of:

"(I) The limitation determined under the immediately preceding sentence; or

"(II) The defined benefit dollar limit, adjusted for participation of fewer than 10 years, if applicable, multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under this act at the age of benefit commencement to the annual amount of the immediately commencing straight life annuity under this act at age 62, both determined without applying the limitations of this section. The adjustment in this sub-subparagraph shall not apply as a result of benefits paid on account of disability under section 4 or as a result of the death of a teacher under section 9.

"(ii) If the benefit of a teacher begins after age 65, the defined benefit dollar limit applicable to the teacher at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limit applicable at age 65 (adjusted for participation of fewer than 10 years, if applicable) computed using a 5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code. However, if the benefit provided under this act provides an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limit is the lesser of:

"(I) The limitation determined under the immediately preceding sentence; or

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"(II) The defined benefit dollar limit (adjusted for participation of less than 10 years, if applicable) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under this act at the age of benefit commencement to the annual amount of the adjusted immediately commencing straight life annuity under this act at age 65, both determined without applying the limitations of this section. For this purpose, the adjusted immediately commencing straight life annuity under this act at the age the benefit commences is the annual amount of the annuity payable to the teacher, computed disregarding the teacher's accruals after age 65 but including any actuarial adjustments, even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under this act at age 65 is the annual amount of such annuity that would be payable under this act to a hypothetical teacher who is age 65 and has the same annuity as the teacher.

"(iii) For the purposes of this subparagraph, no adjustment shall be made to the defined benefit dollar limit to reflect the probability of a teacher's death between the commencing date and age 62, or between age 65 and the commencing date, as applicable, if benefits are not forfeited upon the death of the teacher before the annuity having a commencing date. To the extent benefits are forfeited upon death before the date the benefits first commence, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the teacher's death if the benefit provided under this act does not charge the teacher for providing a qualified preretirement survivor annuity (as defined for purposes of section 415 of the Internal Revenue Code) upon the teacher's death.

"(3) If the teacher has fewer than 10 years of participation in the defined benefit portion of this act (as determined under section 415 of the Internal Revenue Code and associated regulations), the defined benefit dollar limit shall be multiplied by a fraction, the numerator of which is the number of years (or part thereof) of participation under this act and the denominator of which is 10. The adjustment in this paragraph shall not apply to benefits paid on account of disability under section 4(d) or as a result of the death of a teacher under section 9. In the case of years of credited service credited to a teacher pursuant to section 8:

"(A) The limitations contained in paragraph (1)(A)(i) of this subsection and this paragraph shall not apply to the portion of the teacher's accrued retirement benefit (determined as of the annuity commencement date) that is attributable to any additional years of credited service under section 8 that are actuarially funded by:

"(i) A transfer or rollover from the teacher's account under a retirement plan qualified under section 401(a) of the Internal Revenue Code or an eligible deferred compensation plan within the meaning of section 457(b) of the Internal Revenue Code or from an individual retirement account; or

"(ii) A direct payment.

"(B) The limitations contained in paragraph (1)(A)(i) of this subsection and this paragraph shall apply to the portion of the teacher's accrued retirement benefit (determined as of the annuity commencement date) that is attributable to any additional years of credited service under section 8 that are not actuarially funded by:

"(i) A transfer or rollover from the teacher's account under a

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retirement plan qualified under section 401(a) of the Internal Revenue Code or an eligible deferred compensation plan (within the meaning of section 457(b) of the Internal Revenue Code) or from an individual retirement account; or

"(ii) A direct payment.

"(C) The determination of the extent to which additional years of credited service under section 8 have been actuarially funded as of the annuity commencement date shall be determined in accordance with section 411(c) of the Internal Revenue Code (using the actuarial assumptions thereunder), applied as if section 411(c) of the Internal Revenue Code applied and treating the amount transferred from a plan qualified under section 401(a) of the Internal Revenue Code, the teacher's account under an eligible deferred compensation plan (within the meaning of section 457(b) of the Internal Revenue Code), or an individual retirement account, or the amount of the direct lump-sum payment to the Custodian of Retirement Funds, as if it were a mandatory employee contribution.

"(4) In addition to the foregoing, the maximum benefit and contributions shall be reduced, and the rate of benefit accrual shall be frozen or reduced accordingly, to the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, with respect to any teacher who is also a participant in:

"(A) Any other tax-qualified retirement plan maintained by the District of Columbia, including a defined benefit plan in which an individual medical benefit account, as described in section 415(l) of the Internal Revenue Code, has been established for the teacher;

"(B) A welfare plan maintained by the District of Columbia in which a separate account, as described in section 419A(d) of the Internal Revenue Code, has been established to provide post-retirement medical benefits for the teacher; or

"(C) A retirement or welfare plan, as aforesaid, maintained by an affiliated or predecessor employer, as described in regulations under section 415 of the Internal Revenue Code, or otherwise required to be taken into account under such regulations.

"(5) If a teacher has distributions commencing at more than one date determined in accordance with section 415 of the Internal Revenue Code and associated regulations, the annuity payable having the commencement date shall satisfy the limitations of this subsection as of each date, actuarially adjusting for past and future distributions of benefits commencing at the other dates that benefits commence.

"(6) The application of the provisions of this subsection shall not cause the maximum permissible benefit for a teacher to be less than the teacher's annuity under this act as of the end of the last limitation year beginning before July 1, 2007 under provisions of this act that were both adopted and in effect before April 5, 2007 and that satisfied the limitations under section 415 of the Internal Revenue Code as in effect as of the end of the last limitation year beginning before July 1, 2007.

"(7) To the extent that a teacher's benefit is subject to provisions of section 415 of the Internal Revenue Code that have not been set forth in this act, these provisions are hereby incorporated by reference and for all purposes shall be deemed a part of this act.

"(c) Notwithstanding any other provision to the contrary, all death benefit payments referred to in this section shall be distributed only in accordance with section 401(a)(9) of the

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Internal Revenue Code and accompanying Treasury regulations, as more fully set forth in section 7a.”.

"(d) For the purposes of this section, the term:

"(1) "Annual additions" means the sum of the following items credited to the teacher under this act and any other tax-qualified retirement plan sponsored by the District of Columbia for a limitation year and treated as a defined contribution plan for purposes of section 415 of the Internal Revenue Code: District of Columbia contributions that are separately allocated to the teacher's credit in any defined contribution plan; forfeitures; teacher contributions (other than contributions that are picked up by the District of Columbia as described in section 414(h)(2) of the Internal Revenue Code); and amounts credited after March 31, 1984 to a teacher's individual medical account (within the meaning of section 415(l) of the Internal Revenue Code).

"(2) "Defined benefit dollar limit" means the dollar limit imposed by section 415(b)(1)(A) of the Internal Revenue Code, as adjusted pursuant to section 415(d) of the Internal Revenue Code. The defined benefit dollar limit as set forth above is the monthly amount payable in the form of a straight life annuity, beginning no earlier than age 62 (except as provided in subsection (b)(2)(B)(i)) of this section and no later than age 65. In the case of a monthly amount payable in a form other than a straight life annuity, or beginning before age 62 or after age 65, the adjustments in subsection (b)(2) of this section shall apply.

"(3) "Dollar limit" means the dollar limit on annual additions imposed by section 415(c)(1)(A) of the Internal Revenue Code, as adjusted pursuant to section 415(d) of the Internal Revenue Code.

"(4) "Remuneration" means a teacher's wages as defined in section 3401(a) of the Internal Revenue Code and all other payments of salary to the teacher from the public schools of the District of Columbia for which the public schools of the District of Columbia is required to furnish the teacher a written statement under sections 6041(d) and 6051(a)(3) of the Internal Revenue Code. For this purpose:

"(A) Remuneration shall be determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed.

"(B) Remuneration does not include mandatory employee contributions picked up by the public schools of the District of Columbia pursuant to section 1.

"(C) Remuneration shall include an amount that would otherwise be deemed remuneration under this definition but for the fact that it is subject to a salary reduction agreement under a plan described in section 457(b), 132(f) or 125 of the Internal Revenue Code.

"(D) Remuneration with respect to any limitation year shall in no event exceed the dollar limit specified in section 401(a)(17) of the Internal Revenue Code (as adjusted from time to time by the Secretary of the Treasury). The cost-of-living adjustment in effect for

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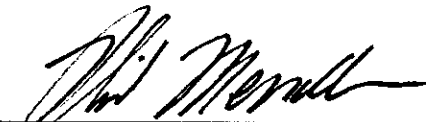
a calendar year applies to remuneration for the limitation year that begins with or within such calendar year.”.

Sec. 3. Fiscal impact statement.

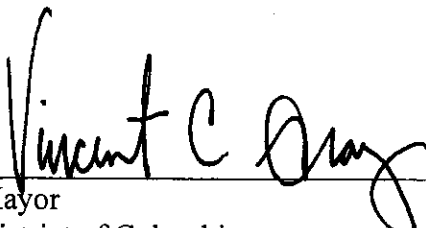
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
February 15, 2013

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AN ACT

D.C. ACT 19-681

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 15, 2013Codification
District of
Columbia
Official Code
2001 Edition

Summer 2013

To amend, on a temporary basis, An Act For the Retirement of Public-School Teachers in the District of Columbia to comply with applicable tax qualification provisions of the Internal Revenue Code for governmental retirement plans.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Retirement of Public-School Teachers Omnibus Temporary Amendment Act of 2012".

Sec. 2. An Act For the retirement of public-school teachers in the District of Columbia, approved August 7, 1946 (60 Stat. 875; D.C. Official Code § 38-2021.01 *et seq.*), is amended as follows:

(a) Section 1 (D.C. Official Code § 38-2021.01) is amended as follows:

(1) The heading of the section is amended by striking the phrase "; purchase of annuity".

(2) Subsection (b) is repealed.

(3) New subsections (c), (d), and (e) are added to read as follows:

"(c) Amounts deducted and withheld from the annual salary of each teacher shall be:

"(1) Picked up by the public schools of the District of Columbia, as described in section 414(h)(2) of the Internal Revenue Code;

"(2) Deducted and withheld from the annual salary of the teachers as salary reduction contributions;

"(3) Paid by the public schools of the District of Columbia to the Custodian of Retirement Funds, as defined in section 102(6) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D. C. Official Code § 1-702(6)); and

"(4) Made a part of the teacher's annuity benefit.

"(d) Notwithstanding any provisions of this act to the contrary, the amounts contributed under this section shall be fully (100%) vested.

"(e) Notwithstanding any provisions of this act to the contrary, upon the employer's request, a contribution that was made by a mistake of fact shall be returned to the employer by the trustee within one year after the payment of the contribution. A portion of a contribution returned pursuant to this section shall be adjusted to reflect earnings or gains. Notwithstanding

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any provisions of this act to the contrary, the right or claim of a participant or beneficiary to an asset of the trust or a benefit under this act shall be subject to and limited by the provisions of this subsection.”

(b) Section 3 (D.C. Official Code § 38-2021.03) is amended by adding a new subsection (c-1) to read as follows:

“(c-1) A teacher who completes 5 years of eligible service shall be 100% vested.”

(c) Section 4(d) (D.C. Official Code § 38-2021.04(d)) is amended to read as follows:

“(d) In cases where the annuity is discontinued under the provisions of this section, as much of the annuity payments as would have been provided by an annuity whose actuarial value at the time of retirement was equal to the contributions accumulated with interest shall be charged against the teacher's individual account and, unless the teacher shall become reemployed in a position covered under the Teachers’ Retirement Program established pursuant to the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), the teacher shall be considered as having been separated from the service for other than retirement purposes and entitled to the benefits set forth in section 9.”

(d) Section 5 (D.C. Official Code § 38-2021.05) is amended by adding a new subsection (f) to read as follows:

“(f) Each year, the District of Columbia Retirement Board shall set the applicable interest rate, mortality table, and cost-of-living factor to be used in the determination of actuarial equivalents or for other pertinent benefit calculations under the provisions of this act.”

(e) A new section 7a is added to read as follows:

"Sec. 7a. Required minimum distributions.

“(a) Distributions shall begin no later than the teacher’s required beginning date, as defined in section 401(a)(9) of the Internal Revenue Code, and shall be made in accordance with all other requirements of section 401(a)(9) of the Internal Revenue Code. The provisions of this section shall apply for the purposes of determining minimum required distributions under section 401(a)(9) of the Internal Revenue Code and take precedence over any inconsistent provisions of this act; provided, that these provisions are intended solely to reflect the requirements of section 401(a)(9) of the Internal Revenue Code and accompanying Treasury regulations and are not intended to provide or expand, and shall not be construed as providing or expanding, a benefit or distribution option not otherwise expressly provided for under the terms of this act. The provisions of this section shall apply only to the extent required under section 401(a)(9) of the Internal Revenue Code as applied to a governmental plan, and if any special rules for governmental plans are not set forth in this section, these special rules are incorporated by reference and shall for all purposes be deemed a part of this act.

"(b)(1) The teacher's entire interest shall be distributed, or begin to be distributed, to the teacher no later than April 1 following the later of the calendar year in which the teacher attains age 70 ½ or the calendar year in which the teacher retires or terminates employment (the “required beginning date”).

"(2) If the teacher dies before distributions begin, the teacher's entire interest shall be distributed, or shall begin to be distributed, no later than as follows:

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"(A) If the teacher's surviving spouse is the sole designated beneficiary, distributions to the surviving spouse shall begin by December 31 of the calendar year immediately following the calendar year in which the teacher died, or by December 31 of the calendar year in which the teacher would have attained age 70½, if later;

"(B) If the teacher's surviving spouse is not the sole designated beneficiary, distributions to the designated beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the teacher died;

"(C) If there is no designated beneficiary as of September 30 of the year following the year of the teacher's death, the teacher's entire interest shall be distributed by December 31 of the calendar year of the 5th anniversary of the teacher's death;

"(D) If the teacher's surviving spouse is the sole designated beneficiary and the surviving spouse dies after the teacher but before distributions to the surviving spouse begin, subparagraph (A) of this paragraph shall not apply, and subparagraphs (B) and (C) of this paragraph shall apply as if the surviving spouse were the teacher. For the purposes of this paragraph and subsection (d) of this section, distributions are considered to begin on the teacher's required beginning date or, if subparagraph (D) of this paragraph applies, the date distributions to the surviving spouse are required to begin under subparagraph (A) of this paragraph. If annuity payments to the teacher irrevocably commence before the teacher's required beginning date or to the teacher's surviving spouse before the date distributions to the surviving spouse are required to begin under subparagraph (A) of this paragraph, the date distributions are considered to begin is the date distributions actually commence.

"(3) Unless the teacher's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution, calendar year distributions shall be made in accordance with subsections (c) and (d) of this section. If the teacher's interest is distributed in the form of an annuity purchased from an insurance company, distributions under the annuity shall be made in accordance with the requirements of section 401(a)(9) of the Internal Revenue Code and applicable Treasury regulations. A part of the teacher's interest that is in the form of an individual account described in section 414(k) of the Internal Revenue Code shall be distributed in a manner satisfying the requirements of section 401(a)(9) of the Internal Revenue Code and the Treasury regulations that apply to individual accounts.

"(c)(1) The amount of the annuity is to be determined each year.

"(2) If the teacher's interest is paid in the form of annuity distributions, payments under the annuity shall satisfy the following requirements:

"(A) The annuity distributions shall be paid in periodic payments made at intervals not longer than one year;

"(B) Payments shall either be non-increasing or increase only as follows:

"(i) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index based on prices of all items (the CPI-W) and issued by the Bureau of Labor Statistics;

"(ii) To provide cash refunds of employee contributions upon the teacher's death;

"(iii) To pay increased benefits that result from an amendment

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to this act, An Act To increase annuities payable to certain annuitants from the District of Columbia teachers retirement and annuity fund, and for other purposes, approved September 2, 1958 (72 Stat. 1768; D.C. Official Code § 38-2023.01 *et seq.*), An Act To amend the Act for the retirement of public-school teachers in the District of Columbia, approved March 6, 1952 (66 Stat. 22; D.C. Official Code § 38-2023.11), An Act To amend the District of Columbia Teachers' Salary Act of 1955, as amended, and to provide for the adjustment of annuities paid from the District of Columbia teachers' retirement and annuity fund, approved October 24, 1962 (76 Stat. 1229; D.C. Official Code § 38-2023.12), section 251(a)(2) and section 253(a)(6) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C. Official Code § 38-2023.13, 38-2023.14), An Act To amend section 5 of the Act of August 7, 1946, entitled "An Act for the retirement of public school teachers in the District of Columbia", as amended, approved July 2, 1956 (70 Stat. 487; D.C. Official Code § 38-2023.15), and An Act To authorize the Commissioner of the District of Columbia to enter into agreements with teachers and other employees of the Board of Education of the District of Columbia for the purchase of annuity contracts, approved April 26, 1972 (86 Stat. 131; D.C. Official Code § 38-2023.16) (collectively "the associated acts").

"(3) The amount that must be distributed on or before the teacher's required beginning date or, if the teacher dies before distributions begin, the date distributions are required to begin under subsection (b)(2)(A) or (B) of this section, is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received (for example, bi-monthly, monthly, semi-annually, or annually). The teacher's benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the teacher's required beginning date.

"(4) Additional benefits accruing to the teacher in a calendar year after the first distribution calendar year shall be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which the amount accrues.

"(d) Amounts payable if a teacher dies before distribution begins are subject to the following requirements:

"(1) If the teacher dies before the date of distribution of his or her interest begins and there is a designated beneficiary, the teacher's entire interest shall be distributed, beginning no later than the time described in subsection (b)(2)(A) or (B) of this section, over the life of the designated beneficiary not exceeding either of the following:

"(A) Unless the benefit commenced is before the first distribution calendar year, the life expectancy of the designated beneficiary, determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the teacher's death; or

"(B) If the benefit commenced before the first distribution calendar year, the life expectancy of the designated beneficiary, determined using the beneficiary's age as of his or her birthday in the calendar year that begins before benefits commence;

"(2) If the teacher dies before the date distributions begin and there is no

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designated beneficiary as of September 30 of the year following the year of the teacher's death, distribution of the teacher's entire interest shall be completed by December 31 of the calendar year containing the 5th anniversary of the teacher's death; or

"(3) If the teacher dies before the date distribution of the teacher's interest begins, the teacher's surviving spouse is the teacher's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subsection shall apply as if the surviving spouse were the teacher, except that the time by which distributions must begin shall be determined without regard to subsection (b)(2)(A) of this section."

(f) Section 8(a) (D.C. Official Code § 38-2021.08(a)) is amended to read as follows:

"(a) The years of service which form the basis for determining the amount of the annuity provided in section 5(a) shall be computed from the date of original appointment as a teacher in the public schools of the District of Columbia, including so much of any authorized leaves of absence without pay as does not exceed 6 months in the aggregate in a fiscal year, plus service credit that may be allowed under the provisions of this section. A teacher or former teacher who returns to duty after a period of separation is deemed, for the purpose of this section, to have been on a leave of absence without pay for that part of the period in which he or she was receiving benefits under subchapter I of 5 U.S.C. Chapter 81, or any earlier statute on which the subchapter is based. In computing an annuity under section 5(a), the total service of a teacher shall include days of unused sick leave credited to him. No deposit may be required for days of unused sick leave included in a teacher's total service under the preceding sentence. Days of unused sick leave shall not be counted in determining a teacher's average salary or his eligibility for an annuity. In computing the length of service of retiring teachers credit may be given, year for year, for:

"(1) Public school service or its equivalent outside the District of Columbia but not to exceed 10 years;

"(2) Continuous temporary service in the public schools of the District immediately before probationary appointment;

"(3) Service in the District government or the government of the United States allowable under subchapter III of 5 U.S.C. § 83;

"(4) Periods of honorable active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States (but not the National Guard except when ordered to active duty in the service of the United States) before the date of the separation upon which title to annuity is based; provided, that if a teacher is awarded retired pay on account of military service, the teacher's military service shall not be included unless the retired pay is awarded on account of a service-connected disability:

"(A) Incurred in combat with an enemy of the United States; or

"(B) Caused by an instrumentality of war and incurred in the line of duty during an enlistment or employment as provided in Veterans Regulation No. 1(a), part 1, paragraph 1, or is awarded under 10 U.S.C. § 12736;

"(5) Educational leaves of absence with part pay authorized by the Board of Education in accordance with sections 1201, 1202, and 1203 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-612.01, 1-612.02, and 1-612.03); and

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"(6) Continuous temporary service as an employee of a cafeteria or lunchroom operated in the public school buildings of the District of Columbia during a period before the date on which the cafeteria or lunchroom is placed under the Office of Central Management, Department of Food Services, District of Columbia, and immediately before appointment as a teacher in the public schools of the District of Columbia; provided, that portion of the annuity which results from credit for service allowable under paragraphs (1) and (3) of this subsection shall be reduced by the amount of any annuity that the retired teacher is entitled to receive under a federal, state, or municipal retirement or pension system with respect to the service, except that that portion of the annuity after reduction shall not be less than the annuity purchasable with the deposit that the teacher is required to make under the provisions of this section in order to obtain credit for such service; provided further, that no credit for service prescribed in this section, with the exception of periods of honorable service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States and all educational leaves of absence with part pay authorized by the Board of Education in accordance with sections 1201, 1202, and 1203 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective October 1, 1987 (D.C. Law 2-139; D.C. Official Code § 1-612.01, 1-612.02, 1-612.03), shall be given to a teacher until the teacher shall have deposited to the credit of the District of Columbia Teachers' Retirement Fund a sum equal to:

"(A) The accumulated contributions that the teacher would have had credited to the teacher's individual account if the service had been rendered on active duty in the public schools of the District of Columbia, the contributions to be based on the average annual salary of the class to which the teacher is appointed; and

"(B) Interest thereon computed in accordance with section 24(b); provided further, that contributions to the retirement fund made by a teacher on education leave with part pay shall be determined in accordance with the provisions of section 1, but otherwise no provision of this act shall be interpreted to deprive a teacher employed by the Board of Education of any rights or benefits allowable under sections 1201, 1202, and 1203 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-612.01, 1-612.02, 1-612.03). If the teacher so elects, the teacher may deposit the required sum in the District of Columbia Teachers' Retirement Fund in monthly installments, upon making a claim with the District of Columbia Retirement Board. Notwithstanding any other provision to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Internal Revenue Code. Except as otherwise provided in this subsection, this section shall not be construed to allow any teacher more than one year's credit for all services rendered in any one fiscal year."

(g) Section 9 (D.C. Official Code § 38-2021.09), is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Should a teacher to whom this act applies, after completing 5 years of eligible service and before becoming eligible for retirement, become separated from the service, the teacher may elect to receive a deferred annuity, computed as provided in section 5, beginning at the age of 62 years and terminating on the date of the teacher's death; provided, that a teacher who becomes separated from the public schools of the District of Columbia for other than

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retirement purposes and who does not elect to receive a deferred annuity as provided for in this section shall receive as soon as practicable after separation the refund of deductions, deposits, or redeposits; provided further, that no teacher who shall withdraw the amount of the teacher's deductions, deposits, or redeposits under this section shall, after reinstatement, be entitled to credit for previous service unless the teacher shall repay to the Custodian of Retirement Funds as defined in section 102(6) of the District of Columbia Retirement Reform Act, effective November 17, 1979 (93 Stat. 866; D. C. Official Code § 1-702(6)), for deposit in the District of Columbia Teachers' Retirement Fund, established by section 123(a) of the District of Columbia Retirement Reform Act, effective November 17, 1979 (93 Stat. 866; D.C Official Code § 1-713(a)), the amount withdrawn by him (including the interest thereon) plus interest computed in accordance with section 24(c); and provided further, that the amount required to be so deposited may be paid by the teacher, if he so elects, in any number of monthly installments, not exceeding 100.”.

(2) Subsection (b) is amended by adding a new paragraph (4) to read as follows:

“(4) In the event that a teacher to whom this act applies shall die after January 1, 2007, while performing qualified military service, the survivor or survivors of the teacher shall be entitled to receive any additional benefits provided under this act (other than benefit accruals relating to the period of qualified military service) as if the teacher resumed employment and then terminated employment on account of death.”.

(3) A new subsection (b-1) is added to read as follows:

“(b-1) Effective as of January 1, 2007, benefits payable under this act shall not be paid until at least 30 days, or a shorter period as may be permitted by law, but no more than 180 days after a teacher's receipt of required distribution notices and election forms pursuant to section 402(f) of the Internal Revenue Code. The notices must include a description of the teacher's right, if any, to defer receipt of a distribution, the consequences of failing to defer receipt of the distribution, the relative value of optional forms of benefit, and other information as may be required by applicable regulations and guidance.”.

(4) Subsection (c) is amended by adding a new paragraph (8) to read as follows:

“(8) The term “qualified military service” shall mean any military service in the uniformed services, as defined in 38 U.S.C. § 43, by a teacher, if the teacher is entitled to reemployment rights with respect to such military service, all within the meaning of section 414(u)(5) of the Internal Revenue Code.”.

(h) Section 13 (D.C. Official Code § 38-2021.13) is amended by adding a new paragraph at the end to read as follows:

“For the purposes of this Act, the term “Internal Revenue Code” or “Internal Revenue Code of 1986” means the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 *et seq.*)”.

(i) Section 14 (D.C. Official Code § 38-2021.14) is repealed.

(j) A new section 15a (D.C. Official Code § 38-2021.15a) is added to read as follows:

“Sec. 15a. Disposition of forfeitures.

“Forfeitures in the Teacher's Retirement Fund shall not be applied to increase the annuity of a person hereunder, but rather, shall be applied to pay administrative expenses, if and as directed by the District of Columbia Retirement Board, or used to reduce the District's

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contributions.”.

(k) Section 17 (D.C. Official Code § 38-2021.17), is amended to read as follows:

“Sec. 17. Except as provided in the District of Columbia Spouse Equity Act of 1988, effective March 16, 1989 (D.C. Law 7-214; D.C. Official Code § 1-529.01 *et seq.*), none of the money mentioned in this act, including any assets of the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C. Official Code § 1-713(a)), shall be assignable, either in law or equity, or be subject to execution or levy by attachment, garnishment, or other legal process, except with respect to a domestic relations order that substantially meets all of the requirements of section 414(p) of the Internal Revenue Code, as determined solely by the District of Columbia Retirement Board.”.

(l) Section 18 (D.C. Official Code § 38-2021.18), is amended to read as follows:

“Sec. 18. Applicability.

“The provisions of this act and the associated acts shall constitute a defined benefit plan and a governmental plan, as described in section 414(d) of the Internal Revenue Code, which is intended to qualify under section 401(a) of the Internal Revenue Code. Notwithstanding anything to the contrary contained in this act, the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C. Official Code § 1-701 *et seq.*), or the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), the provisions of this act shall apply to and control the provision of any annuity payable. The provisions of this act shall apply to all teachers on the rolls of the public schools of the District who accrue service after June 30, 1997, under the Teachers' Retirement Program established pursuant to the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*), if otherwise eligible.”.

(m) Section 24 (D.C. Official Code § 38-2021.24) is amended as follows:

(1) Redesignate section 24 as section 25.

(2) Subsection (a) is amended to read as follows:

“(a) An individual withdrawing a distribution under this act that constitutes an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code may elect, at the time and in the manner prescribed by the District of Columbia Retirement Board, and after receipt of proper notice, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan, within the meaning of section 402(c) of the Internal Revenue Code, in a direct rollover in accordance with section 401(a)(31) of the Internal Revenue Code. Any nontaxable distribution or portion thereof from a qualified plan may be directly rolled over tax-free to another qualified plan or a plan or annuity contract described in section 403(b) of the Internal Revenue Code, if separate accounting and other requirements are met pursuant to section 402(c)(2)(A) of the Internal Revenue Code.”.

(3) Subsection (c) is amended by striking the phrase “contribution from:” in the lead-in language and inserting the phrase “contribution from an eligible retirement plan, including:” in its place.

(4) Subsection (d) is amended by striking the phrase “shall administer the plan”

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and inserting the phrase "shall administer this act and the associated acts" in its place.

(5) A new subsection (e) is added to read as follows:

"(e) For the purposes of this section, the term:

"(1) "Direct rollover" means a payment to the eligible retirement plan specified by the distributee described in section 402(e)(6) of the Internal Revenue Code.

"(2) "Distributee" means a teacher or former teacher. In addition, the teacher' or former teacher's surviving spouse is a distributee with regard to the interest of the spouse or former spouse. A nonspouse beneficiary of a deceased teacher is also a distributee for purposes of this section; provided, that, in the case of a nonspouse beneficiary, the direct rollover may be made only to an individual retirement account or annuity under section 408 of the Internal Revenue Code that is established on behalf of the nonspouse beneficiary and that will be treated as an inherited IRA pursuant to the provisions of section 402(c)(11) of the Internal Revenue Code. The determination of the extent to which a distribution to a nonspouse beneficiary is required under section 401(a)(9) of the Internal Revenue Code shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395.

"(3) "Eligible retirement plan" means:

"(A) An individual retirement account described in section 408(a) of the Internal Revenue Code, including a Roth IRA described in section 408A of the Internal Revenue Code;

"(B) An individual retirement annuity described in section 408(b) of the Internal Revenue Code, including a Roth IRA described in section 408A of the Internal Revenue Code;

"(C) A qualified trust described in section 401(a) of the Internal Revenue Code or an annuity plan described in section 403(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution;

"(D) An annuity contract described in section 403(b) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution; and

"(E) An eligible plan described in section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state, that accepts the distributee's eligible rollover distribution and agrees to account separately for amounts transferred into such plan from the arrangement described under this act. The foregoing definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relations order.

"(4) "Eligible rollover distribution," within the meaning of section 402(c) of the Internal Revenue Code, means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

"(A) A distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; and

"(B) A distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code. A distribution to a nonspouse beneficiary under section

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401(f)(2)(A) of the Internal Revenue Code is an eligible rollover distribution. A portion of the distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, the portion may be paid only to an individual retirement account or annuity described in section 408(a) or (b) of the Internal Revenue Code or to a qualified trust or annuity plan described in section 401(a) or 403(a) of the Internal Revenue Code or an annuity contract described in section 403(b) of the Internal Revenue Code if the trust or annuity plan or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.”

(n) Section 25 (D.C. Official Code § 38-2021.25) is amended as follows:

(1) Redesignate section 25 as section 26.

(2) The newly designated section 26 is amended to read as follows:

“Sec. 26. (a) Benefits and contributions under the provisions of this act shall not be computed with reference to any compensation that exceeds that maximum dollar amount permitted by section 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost-of-living.

“(b) Notwithstanding the foregoing provisions of this act and the associated acts to the contrary, benefits under this act and the associated acts are subject to the limitations imposed by section 415 of the Internal Revenue Code, as adjusted from time to time and, to that end, effective for limitation years beginning on or after January 1, 2008:

“(1)(A) To the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, and subject to the remainder of this subsection, the maximum monthly benefit to which any teacher may be entitled in any limitation year with respect to his or her accrued retirement benefit, as adjusted from time to time pursuant to section 21 (hereafter referred to as the “maximum benefit”), shall not exceed the defined benefit dollar limit (adjusted as provided in this subsection). In addition to the foregoing, to the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, and subject to this subsection, the maximum annual additions for any limitation year shall be equal to the lesser of:

“(i) The dollar limit on annual additions; or

“(ii) 100% of the teacher's remuneration.

“(B) The defined benefit dollar limit and the dollar limit on annual additions shall be adjusted, effective January 1 of each year, under section 415(d) of the Internal Revenue Code in such manner as the Secretary of the Treasury shall prescribe. The dollar limit as adjusted under section 415(d) of the Internal Revenue Code shall apply to limitation years ending with or within the calendar year for which the adjustment applies, but a teacher's benefits shall not reflect the adjusted limit before January 1 of that calendar year. To the extent that the monthly benefit payable to a teacher who has reached his or her termination date is limited by the application of this subsection, the limit shall be adjusted to reflect subsequent adjustments made in accordance with section 415(d) of the Internal Revenue Code, but the adjusted limit shall apply only to benefits payable on or after January 1 of the calendar year for which the adjustment applies.

“(2) Benefits shall be actuarially adjusted based upon the defined benefit dollar

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limit, as follows:

"(A) There shall be an adjustment for benefits payable in a form other than a straight life annuity as follows:

"(i) If a monthly benefit is payable in a form other than a straight life annuity, before applying the defined benefit dollar limit, the benefit shall be adjusted, in the manner described in sub-subparagraphs (ii) or (iii) of this subparagraph, to the actuarially equivalent straight life annuity that begins at the same time. No actuarial adjustment to the benefit shall be made for benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits), or in the case of a form of benefit not subject to section 417(e)(3) of the Internal Revenue Code, the inclusion of a feature under which a benefit increases automatically to the extent permitted to reflect cost-of-living adjustments and the increase, if any, in the defined benefit dollar limit under section 415(d) of the Internal Revenue Code.

"(ii) If the benefit of a teacher is paid in a form not subject to section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity (without regard to cost-of-living adjustments described in this subsection) is equal to the greater of the annual amount of the straight life annuity, if any, payable to the teacher commencing at the same time, or the annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the teacher's form of benefit, computed using a 5% interest rate and the applicable mortality designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code.

"(iii) If the benefit of a teacher is paid in a form subject to section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity is equal to the greatest of:

"(I) The annual amount of the straight life annuity having a commencement date that has the same actuarial present value as the teacher's form of benefit, computed using the interest rate and mortality table (or other tabular factor) specified in the definition of actuarial equivalent for adjusting benefits in the same form;

"(II) The annual amount of the straight life annuity commencing at the time that has the same actuarial present value as the teacher's form of benefit, computed using a 5.5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code; or

"(III) The annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the teacher's form of benefit, computed using the applicable interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code, divided by 1.05.

"(iv) For the purposes of this subparagraph, whether a form of benefit is subject to section 417(e) of the Internal Revenue Code is determined without regard to the status of this act and the associated acts as a government plan as described in section 414(d) of the Internal Revenue Code.

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"(B) There shall be an adjustment to benefits that commence before age 62 or after age 65 as follows:

"(i) If the benefit of a teacher begins before age 62, the defined benefit dollar limit applicable to the teacher at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limit applicable to the teacher at age 62 (adjusted for participation of fewer than 10 years if applicable) computed using a 5% interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code. However, if the benefit provided under this act provides an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limit is the lesser of:

"(I) The limitation determined under the immediately preceding sentence; or

"(II) The defined benefit dollar limit, adjusted for participation of fewer than 10 years if applicable, multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under this act at the age of benefit commencement to the annual amount of the immediately commencing straight life annuity under this act at age 62, both determined without applying the limitations of this section. The adjustment in this sub-subparagraph shall not apply as a result of benefits paid on account of disability under section 4 or as a result of the death of a teacher under section 9.

"(ii) If the benefit of a teacher begins after age 65, the defined benefit dollar limit applicable to the teacher at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limit applicable at age 65 (adjusted for participation of fewer than 10 years, if applicable) computed using a 5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code. However, if the benefit provided under this act provides an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limit is the lesser of:

"(I) The limitation determined under the immediately preceding sentence; or

"(II) The defined benefit dollar limit (adjusted for participation of less than 10 years if applicable) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under this act at the age of benefit commencement to the annual amount of the adjusted immediately commencing straight life annuity under this act at age 65, both determined without applying the limitations of this section. For this purpose, the adjusted immediately commencing straight life annuity under this act at the age the benefit commences is the annual amount of the annuity payable to the teacher, computed disregarding the teacher's accruals after age 65 but including any actuarial adjustments, even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under this act at age 65 is the annual amount of such annuity that would be payable under this act to a hypothetical teacher who is age 65 and has the same annuity as the teacher.

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"(iii) For the purposes of this subparagraph, no adjustment shall be made to the defined benefit dollar limit to reflect the probability of a teacher's death between the commencing date and age 62, or between age 65 and the commencing date, as applicable, if benefits are not forfeited upon the death of the teacher before the annuity having a commencing date. To the extent benefits are forfeited upon death before the date the benefits first commence, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the teacher's death if the benefit provided under this act does not charge the teacher for providing a qualified preretirement survivor annuity (as defined for purposes of section 415 of the Internal Revenue Code) upon the teacher's death.

"(3) If the teacher has fewer than 10 years of participation in the defined benefit portion of this act (as determined under section 415 of the Internal Revenue Code and associated regulations), the defined benefit dollar limit shall be multiplied by a fraction, the numerator of which is the number of years (or part thereof) of participation under this act and the denominator of which is 10. The adjustment in this paragraph shall not apply to benefits paid on account of disability under section 4(d) or as a result of the death of a teacher under section 9. In the case of years of credited service credited to a teacher pursuant to section 8:

"(A) The limitation contained in paragraph (1)(A) of this subsection and this paragraph shall not apply to the portion of the teacher's accrued retirement benefit (determined as of the annuity commencement date) that is attributable to any additional years of credited service under section 8 that are actuarially funded by:

"(i) A transfer or rollover from the teacher's account under a retirement plan qualified under section 401(a) of the Internal Revenue Code or an eligible deferred compensation plan within the meaning of section 457(b) of the Internal Revenue Code or from an individual retirement account; or

"(ii) A direct payment.

"(B) The limitation contained in paragraph (1)(A) of this subsection and this paragraph shall apply to the portion of the teacher's accrued retirement benefit (determined as of the annuity commencement date) that is attributable to any additional years of credited service under section 8 that are not actuarially funded by:

"(i) A transfer or rollover from the teacher's account under a retirement plan qualified under section 401(a) of the Internal Revenue Code or an eligible deferred compensation plan (within the meaning of section 457(b) of the Internal Revenue Code) or from an individual retirement account; or

"(ii) A direct payment.

"(C) The determination of the extent to which additional years of credited service under section 8 have been actuarially funded as of the annuity commencement date shall be determined in accordance with section 411(c) of the Internal Revenue Code (using the actuarial assumptions thereunder), applied as if section 411(c) of the Internal Revenue Code applied and treating the amount transferred from a plan qualified under section 401(a) of the Internal Revenue Code, the teacher's account under an eligible deferred compensation plan (within the meaning of section 457(b) of the Internal Revenue Code), or an individual retirement account, or the amount of the direct lump-sum payment to the Custodian of Retirement Funds, as if it were a mandatory employee contribution.

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"(4) In addition to the foregoing, the maximum benefit and contributions shall be reduced, and the rate of benefit accrual shall be frozen or reduced accordingly, to the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, with respect to any teacher who is also a participant in:

"(A) Any other tax-qualified retirement plan maintained by the District of Columbia, including a defined benefit plan in which an individual medical benefit account, as described in section 415(l) of the Internal Revenue Code, has been established for the teacher;

"(B) A welfare plan maintained by the District of Columbia in which a separate account, as described in section 419A(d) of the Internal Revenue Code, has been established to provide post-retirement medical benefits for the teacher; or

"(C) A retirement or welfare plan, as aforesaid, maintained by an affiliated or predecessor employer, as described in regulations under section 415 of the Internal Revenue Code, or otherwise required to be taken into account under such regulations.

"(5) If a teacher has distributions commencing at more than one date determined in accordance with section 415 of the Internal Revenue Code and associated regulations, the annuity payable having the commencement date shall satisfy the limitations of this subsection as of each date, actuarially adjusting for past and future distributions of benefits commencing at the other dates that benefits commence.

"(6) The application of the provisions of this subsection shall not cause the maximum permissible benefit for a teacher to be less than the teacher's annuity under this act as of the end of the last limitation year beginning before July 1, 2007 under provisions of this act that were both adopted and in effect before April 5, 2007 and that satisfied the limitations under section 415 of the Internal Revenue Code as in effect as of the end of the last limitation year beginning before July 1, 2007.

"(7) To the extent that a teacher's benefit is subject to provisions of section 415 of the Internal Revenue Code that have not been set forth in this act, these provisions are hereby incorporated by reference and for all purposes shall be deemed a part of this act.

"(c) Notwithstanding any other provision to the contrary, all death benefit payments referred to in this section shall be distributed only in accordance with section 401(a)(9) of the Internal Revenue Code and accompanying Treasury regulations, as more fully set forth in section 7a."

"(d) For the purposes of this section, the term:

"(1) "Annual additions" means the sum of the following items credited to the teacher under this act and any other tax-qualified retirement plan sponsored by the District of Columbia for a limitation year and treated as a defined contribution plan for purposes of section 415 of the Internal Revenue Code: District of Columbia contributions that are separately allocated to the teacher's credit in any defined contribution plan; forfeitures; teacher contributions (other than contributions that are picked up by the District of Columbia as described in section 414(h)(2) of the Internal Revenue Code); and amounts credited after March 31, 1984 to a teacher's individual medical account (within the meaning of section 415(l) of the Internal Revenue Code).

"(2) "Defined benefit dollar limit" means the dollar limit imposed by section 415(b)(1)(A) of the Internal Revenue Code, as adjusted pursuant to section 415(d) of the Internal

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Revenue Code. The defined benefit dollar limit as set forth above is the monthly amount payable in the form of a straight life annuity, beginning no earlier than age 62 (except as provided in subsection (b)(2)(B)(i)) of this section and no later than age 65. In the case of a monthly amount payable in a form other than a straight life annuity, or beginning before age 62 or after age 65, the adjustments in subsection (b)(2) of this section shall apply.

"(3) "Dollar limit" means the dollar limit on annual additions imposed by section 415(c)(1)(A) of the Internal Revenue Code, as adjusted pursuant to section 415(d) of the Internal Revenue Code.

"(4) "Remuneration" means a teacher's wages as defined in section 3401(a) of the Internal Revenue Code and all other payments of salary to the teacher from the public schools of the District of Columbia for which the public schools of the District of Columbia is required to furnish the teacher a written statement under sections 6041(d) and 6051(a)(3) of the Internal Revenue Code. For this purpose:

"(A) Remuneration shall be determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed.

"(B) Remuneration does not include mandatory employee contributions picked up by the public schools of the District of Columbia pursuant to section 1.

"(C) Remuneration shall include an amount that would otherwise be deemed remuneration under this definition but for the fact that it is subject to a salary reduction agreement under a plan described in section 457(b), 132(f) or 125 of the Internal Revenue Code.

"(D) Remuneration with respect to any limitation year shall in no event exceed the dollar limit specified in section 401(a)(17) of the Internal Revenue Code (as adjusted from time to time by the Secretary of the Treasury).. The cost-of-living adjustment in effect for a calendar year applies to remuneration for the limitation year that begins with or within such calendar year."

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for the Retirement of Public-School Teachers Omnibus Amendment Act of 2012, passed on 2nd reading on December 18, 2012 (Enrolled version of Bill 19-1017), as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

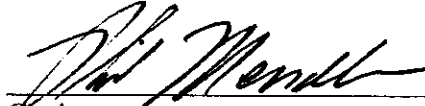
Sec. 4. Effective date.

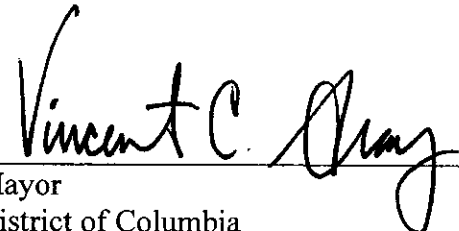
(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat.813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
February 15, 2013

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AN ACT
D.C. ACT 19-682

Codification
 District of
 Columbia
 Official Code
 2001 Edition

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Summer 2013

MARCH 1, 2013

To amend the Policemen and Firemen's Retirement and Disability Act to permit nontaxable distributions to be directly rolled over tax-free to another qualified plan or a 403(b) plan, to permit rollovers to Roth IRAs, to allow non-spouse beneficiaries to roll over distributions to an IRA, to amend the definition of an "eligible rollover distribution" to include a distribution to a non-spouse beneficiary, to require that a rollover notice be distributed within 30 to 180 days and describe tax consequences of failure to defer, to amend the applicable interest rate and mortality table to be used for determining the present value of lump-sum distributions, to update the mortality table to be used in calculating the minimum value of operational forms of benefit in adjusting benefits and limits for the purposes of applying limits under section 415 of the Internal Revenue Code of 1986, to allow survivors of a participant who died while performing qualified military service to receive death benefits as if the participant had been in active service, to treat differential wage payments to participants for serving in the armed forces as compensation for retirement purposes, to state that pre-tax employee contributions are paid for by the employer, to state that the vesting requirements under pre-ERISA are satisfied, to require that actuarial assumptions used to determine benefits preclude employer discretion, to require that benefit payments satisfy the minimum distribution rules, to permit make-up contributions and benefits as required under the Uniformed Services Employment and Reemployment Rights Act, to require that an alternate payee under a qualified domestic relations order be taxed in the same manner as a participant, to include a failsafe provision regarding the tax qualification of the act, to limit benefits and contributions as required under the tax code, to state that compensation taken into account in determining contributions and benefits is subject to annual limits, and to state that funds cannot revert to the employer except in limited circumstances.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Police and Firefighter's Retirement and Disability Omnibus Amendment Act of 2012".

Sec. 2. The Policemen and Firemen's Retirement and Disability Act, approved September 1, 1916 (39 Stat. 718; D.C. Official Code § 5-701 *passim*), is amended as follows:

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(a) Section 12(a) (D.C. Official Code § 5-701) is amended by adding a new paragraph (20) to read as follows:

“(20) The term “Internal Revenue Code” or “Internal Revenue Code of 1986” means the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 *et seq.*)”.

(b) Section 12(c)(2) (D.C. Official Code § 5-704(b)(2)) is amended by adding a sentence at the end to read as follows:

“Notwithstanding any other provision to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with section 414(u) of the Internal Revenue Code.”.

(c) Section 12(d) (D.C. Official Code § 5-706) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

“(1) On and after the first day of the first pay period that begins on or after October 26, 1970, there shall be deducted and withheld from each member's basic salary an amount equal to 7% of such basic salary for all members hired before the first day of the first pay period that begins after October 29, 1996, and 8% of such basic salary for all members hired on or after the first day of the first pay period that begins after October 29, 1996. In the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, these deductions and withholdings shall be paid to the District of Columbia Retirement Board and shall be deposited in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C. Official Code § 1-712), and in the case of any other member, these deductions and withholdings shall be paid to the Collector of Taxes of the District of Columbia and shall be deposited in the Treasury to the credit of the District of Columbia. Amounts deducted and withheld from the basic salary of each member of the District of Columbia Fire and Emergency Medical Services Department shall be:

“(A) Picked up by the District of Columbia Fire and Emergency Medical Services Department, as described in section 414(h)(2) of the Internal Revenue Code of 1986;

“(B) Deducted and withheld from the annual salary of the members as salary reduction contributions;

“(C) Paid by the District of Columbia Fire and Emergency Medical Services Department to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C. Official Code § 1-702(6))); and

“(D) Made a part of the member's annuity benefit.”.

(2) Paragraph (5) is amended to read as follows:

“(5) An individual withdrawing a distribution under this section, which distribution constitutes an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986, may elect, at the time and in the manner prescribed by the District of Columbia Retirement Board, and after receipt of proper notice, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan, within the meaning of

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section 402(c) of the Internal Revenue Code of 1986, in a direct rollover in accordance with section 401(a)(31) of the Internal Revenue Code of 1986.”

(3) Paragraph (7)(A) is amended to read as follows:

“(7)(A) The District of Columbia Retirement Board shall also be entrusted with a rollover contribution from an eligible retirement plan, including:

“(i) A qualified plan described in sections 401(a) or 403(b) of the Internal Revenue Code of 1986, excluding after-tax employee contributions;

“(ii) An annuity contract described in section 403(b) of the Internal Revenue Code of 1986, excluding after-tax employee contributions;

“(iii) An eligible plan under section 457(b) of the Internal Revenue Code of 1986, which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state; or

“(iv) Amounts transferred from an individual retirement account or annuity described in section 408(a) or 408(b) of the Internal Revenue Code of 1986 that is eligible to be rolled over and would otherwise be includible in gross income.”

(4) Paragraph (8) is amended to read as follows:

“(8) The provisions of this act shall constitute a defined benefit plan and a governmental plan as described in section 414(d) of the Internal Revenue Code of 1986, which is intended to qualify under section 401(a) of the Internal Revenue Code. Notwithstanding anything to the contrary contained in this act, the District of Columbia Retirement Reform Act, approved November 19, 1977 (93 Stat. 866; D.C. Official Code § 1-701 *et seq.*), or the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901 *et seq.*), the provisions of this act shall apply to and control the provision of an annuity payable. The District of Columbia Retirement Board shall administer the plan in the manner required to satisfy the applicable qualification requirements for a qualified governmental plan pursuant to the Internal Revenue Code of 1986. If a conflict should arise with a qualification requirement, the provision shall be interpreted in favor of maintaining the federal qualification requirements.”

(5) New paragraphs (10), (11), and (12) are added to read as follows:

“(10) Effective January 1, 2007, benefits payable under this act shall not be paid until at least 30 days (or shorter period as may be permitted by law) but no more than 180 days after a member’s receipt of all required distribution notices and election forms pursuant to section 402(f) of the Internal Revenue Code of 1986. The required notices must include a description of the member’s right (if any) to defer receipt of a distribution, the consequences of failing to defer receipt of the distribution, the relative value of optional forms of benefit, and other information as may be required by applicable regulations and guidance.

“(11) Notwithstanding any provisions of this act to the contrary, upon the employer’s request, a contribution which was made by a mistake of fact shall be returned to the employer by the trustee within one year after the payment of the contribution. A portion of a contribution returned pursuant to this subsection shall be adjusted to reflect any earnings or gains. Notwithstanding any provisions of this act to the contrary, the right or claim of a participant or beneficiary to an asset of the trust or a benefit under this act shall be subject to and

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limited by the provisions of this paragraph.”.

“(12) For the purposes of this subsection, the term:

“(A) “Direct rollover” means a payment to the eligible retirement plan specified by the distributee described in section 402(e)(6) of the Internal Revenue Code of 1986.

“(B) “Distributee” means a member or former member. In addition, the member’s or former member’s surviving spouse is a distributee with regard to the interest of the spouse or former spouse. A non-spouse beneficiary of a deceased member is also a distributee for the purposes of this section; provided, that in the case of a non-spouse beneficiary, the direct rollover may be made only to an individual retirement account or annuity under section 408 of the Internal Revenue Code of 1986 that is established on behalf of the non-spouse beneficiary and that will be treated as an inherited IRA pursuant to the provisions of section 402(c)(11) of the Internal Revenue Code of 1986. The determination of the extent to which a distribution to a non-spouse beneficiary is required under section 401(a)(9) of the Internal Revenue Code of 1986 shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395.

“(C) “Eligible retirement plan” means:

“(i) An individual retirement account described in section 408(a) of the Internal Revenue Code of 1986, including a Roth IRA described in section 408A of the Internal Revenue Code of 1986;

“(ii) An individual retirement annuity described in section 408(b) of the Internal Revenue Code of 1986, including a Roth IRA described in section 408A of the Internal Revenue Code of 1986;

“(iii) A qualified trust described in section 401(a) of the Internal Revenue Code of 1986 or an annuity plan described in section 403(a) of the Internal Revenue Code of 1986 that accepts the distributee’s eligible rollover distribution;

“(iv) An annuity contract described in section 403(b) of the Internal Revenue Code of 1986 that accepts the distributee’s eligible rollover distribution; and

“(v) An eligible plan described in section 457(b) of the Internal Revenue Code of 1986 that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state that accepts the distributee’s eligible rollover distribution and agrees to account separately for amounts transferred into such plan from the arrangement described under this paragraph. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relations order.

“(D) “Eligible rollover distribution,” within the meaning of section 402(c) of the Internal Revenue Code of 1986, is a distribution of all or a portion of the balance to the credit of the distributee; provided, that an eligible rollover distribution does not include:

“(i) A distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee’s designated beneficiary, or for a specified period of 10 years or more; and

“(ii) A distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code of 1986. A distribution to a nonspouse

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beneficiary under section 401(f)(2)(A) of the Internal Revenue Code of 1986 is an eligible rollover distribution. A portion of the distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, the portion may be paid only to an individual retirement account or annuity described in section 408(a) or (b) of the Internal Revenue Code of 1986 or to a qualified trust or annuity plan described in section 401(a) or 403(a) of the Internal Revenue Code of 1986 or an annuity contract described in section 403(b) of the Internal Revenue Code of 1986 if the trust or annuity plan or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible.”.

(d) Section 12(h) (D.C. Official Code § 5-712) is amended by adding new paragraphs (8) and (9) to read as follows:

“(8) A member who meets the requirements for receiving an annuity under this section, but for the fact that the member has not yet retired, shall be 100% vested in the member's annuity.

“(9) Each year, the District of Columbia Retirement Board shall set the applicable interest rate, mortality table, and cost-of-living factor to be used in the determination of actuarial equivalents or for other pertinent benefit calculations under the provisions of this act.”.

(e) Section 12(k) (D.C. Official Code § 5-716) is amended by adding a new paragraph (7) to read as follows:

“(7) In the event a member to whom this subsection applies shall die after January 1, 2007, while performing qualified military service, the survivor or survivors of the member shall be entitled to receive any additional benefits provided under this subsection (other than benefit accruals relating to the period of qualified military service), as if the member resumed employment and then terminated employment on account of death. For the purposes of this paragraph, the term “qualified military service” shall mean military service in the uniformed services (as defined in 38 U.S.C. § 43) by a member, if the member is entitled to reemployment rights with respect to such military service, all within the meaning of section 414(u)(5) of the Internal Revenue Code of 1986.”.

(f) Section 12(n-1) (D.C. Official Code § 5-723.01) is amended to read as follows:

“(n-1)(1) Benefits and contributions under the provisions of this act shall not be computed with reference to any compensation that exceeds that maximum dollar amount permitted by section 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost of living.

“(2) Notwithstanding foregoing provisions of this act to the contrary, benefits under this act are subject to the limitations imposed by section 415 of the Internal Revenue Code, as adjusted from time to time and, to that end, effective for limitation years beginning on or after January 1, 2008:

“(A)(i) To the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, and subject to the remainder of this paragraph, the maximum monthly benefit to which any member may be entitled in any limitation year with respect to his

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or her accrued retirement benefit, as adjusted from time to time pursuant to section 12(m) (the "maximum benefit"), shall not exceed the defined benefit dollar limit (adjusted as provided in this paragraph). In addition to the foregoing, to the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, and subject to the remainder of this paragraph, the maximum annual additions for any limitation year shall be equal to the lesser of:

"(I) The dollar limit on annual additions; or

"(II) 100% of the member's remuneration.

"(ii) The defined benefit dollar limit and the dollar limit on annual additions shall be adjusted, effective January 1 of each year, under section 415(d) of the Internal Revenue Code in a manner prescribed by the Secretary of the Treasury. The dollar limit as adjusted under section 415(d) of the Internal Revenue Code shall apply to limitation years ending with or within the calendar year for which the adjustment applies, but a member's benefits shall not reflect the adjusted limit before January 1 of that calendar year. To the extent that the monthly benefit payable to a member who has reached the member's termination date is limited by the application of this paragraph, the limit shall be adjusted to reflect subsequent adjustments made in accordance with section 415(d) of the Internal Revenue Code of 1986, but the adjusted limit shall apply only to benefits payable on or after January 1 of the calendar year for which the adjustment applies.

"(B) Benefits shall be actuarially adjusted based upon the defined benefit dollar limit, as follows:

"(i) There shall be an adjustment for benefits payable in a form other than a straight life annuity as follows:

"(I) If a monthly benefit is payable in a form other than a straight life annuity, before applying the defined benefit dollar limit, the benefit shall be adjusted in the manner described in sub-sub-subparagraphs (II) or (III) of this sub-subparagraph, to the actuarially equivalent straight life annuity that begins at the same time. No actuarial adjustment to the benefit shall be made for:

"(aa) Benefits that are not directly related to retirement benefits, such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits; or

"(bb) In the case of a form of benefit not subject to section 417(e)(3) of the Internal Revenue Code of 1986, the inclusion of a feature under which a benefit increases automatically to the extent permitted to reflect cost-of-living adjustments and the increase, if any, in the defined benefit dollar limit under section 415(d) of the Internal Revenue Code of 1986.

"(II) If the benefit of a member is paid in a form not subject to section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity, without regard to cost-of-living adjustments described in this paragraph, is equal to the greater of:

"(aa) The annual amount of the straight life annuity, if any, payable to the member commencing at the same time; or

"(bb) The annual amount of the straight life annuity

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commencing at the same time that has the same actuarial present value as the member's form of benefit, computed using a 5% interest rate and the applicable mortality designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code of 1986.

"(III) If the benefit of a member is paid in a form subject to section 417(e) of the Internal Revenue Code of 1986, the actuarially equivalent straight life annuity is equal to the greatest of:

"(aa) The annual amount of the straight life annuity having a commencement date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and mortality table or other tabular factor specified in the definition of actuarial equivalent for adjusting benefits in the same form;

"(bb) The annual amount of the straight life annuity commencing at the time that has the same actuarial present value as the member's form of benefit, computed using a 5.5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code of 1986; or

"(cc) The annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the member's form of benefit, computed using the applicable interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code of 1986, divided by 1.05.

"(IV) For the purposes of this sub-subparagraph, whether a form of benefit is subject to section 417(e) of the Internal Revenue Code is determined without regard to the status of this act as a governmental plan as described in section 414(d) of the Internal Revenue Code of 1986.

"(ii) There shall be an adjustment to benefits that commence before age 62 or after age 65 as follows:

"(I) If the benefit of a member begins before age 62, the defined benefit dollar limit applicable to the member at the earlier age shall be an annual benefit payable in the form a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limit applicable to the member at age 62 (adjusted for participation of fewer than 10 years, if applicable) computed using a 5% interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code of 1986. However, if the benefit provided under this act provides an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limit is the lesser of:

"(aa) The limitation determined under the immediately preceding sentence; or

"(bb) The defined benefit dollar limit (adjusted for participation of fewer than 10 years, if applicable) multiplied by the ratio of the annual amount

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of the immediately commencing straight life annuity under this act at the age of benefit commencement to the annual amount of the immediately commencing straight life annuity under this act at age 62, both determined without applying the limitations of this subsection. The adjustment in this sub-sub-subparagraph shall not apply as a result of benefits paid on account of disability under sections 12(f) or 12(g) or as a result of the death of a member under section 12(k). Notwithstanding the provisions above, a member that qualifies under section 415(b)(2)(G) of the Internal Revenue Code of 1986 is not subject to the adjustment to benefits that commence before age 62.

"(II) If the benefit of a member begins after age 65, the defined benefit dollar limit applicable to the member at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limit applicable at age 65 (adjusted for participation of fewer than 10 years, if applicable) computed using a 5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code. However, if the benefit provided under this act provides an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limit is the lesser of:

"(aa) The limitation determined under the immediately preceding sentence; or

"(bb) The defined benefit dollar limit (adjusted for participation of less than 10 years, if applicable) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under this act at the age of benefit commencement to the annual amount of the adjusted immediately commencing straight life annuity under this act at age 65, both determined without applying the limitations of this subsection. For this purpose, the adjusted immediately commencing straight life annuity under this act at the age the benefit commences is the annual amount of the annuity payable to the member, computed disregarding the member's accruals after age 65 but including any actuarial adjustments, even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under this act at age 65 is the annual amount of such annuity that would be payable under this act to a hypothetical member who is age 65 and has the same annuity as the member.

"(III) For the purposes of this sub-subparagraph, no adjustment shall be made to the defined benefit dollar limit to reflect the probability of a member's death between the commencing date and age 62, or between age 65 and the commencing date, as applicable, if benefits are not forfeited upon the death of the member before the annuity having a commencing date. To the extent that benefits are forfeited upon death before the date the benefits first commence, an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member's death if the benefit provided under this act does not charge the member for providing a qualified preretirement survivor annuity, as defined for purposes of section 415 of the Internal Revenue Code of 1986, upon the member's death.

"(C) If the member has fewer than 10 years of participation in the defined

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benefit portion of this act, as determined under section 415 of the Internal Revenue Code of 1986 and the regulations thereunder, the defined benefit dollar limit shall be multiplied by a fraction, the numerator of which is the number of years (or part thereof) of participation under this act and the denominator of which is 10. The adjustment in this subparagraph shall not apply to benefits paid on account of disability under sections 12(f) or (g) or as a result of the death of a member under section 12(k). In the case of years of credited service credited to a member pursuant to section 12(c):

"(i) The limitations contained in subparagraph (A)(i)(I) of this paragraph and this subparagraph shall not apply to the portion of the member's accrued retirement benefit (determined as of the annuity commencement date) that is attributable to any additional years of credited service under section 12(c) that are actuarially funded by:

"(I) A transfer or rollover from the member's account under a retirement plan qualified under section 401(a) of the Internal Revenue Code of 1986 or an eligible deferred compensation plan within the meaning of section 457(b) of the Internal Revenue Code of 1986 or from an individual retirement account; or

"(II) A direct payment.

"(ii) The limitations contained in subparagraph (A)(i)(I) of this paragraph and this subparagraph shall apply to the portion of the member's accrued retirement benefit (determined as of the annuity commencement date) that is attributable to any additional years of credited service under section 12(c) that are not actuarially funded by:

"(I) A transfer or rollover from the member's account under a retirement plan qualified under section 401(a) of the Internal Revenue Code of 1986 or an eligible deferred compensation plan within the meaning of section 457(b) of the Internal Revenue Code of 1986 or from an individual retirement account; or

"(II) A direct payment.

"(iii) The determination of the extent to which additional years of credited service under section 12(c) have been actuarially funded as of the annuity commencement date shall be determined in accordance with section 411(c) of the Internal Revenue Code of 1986 (using the actuarial assumptions thereunder), applied as if section 411(c) of the Internal Revenue Code of 1986 applied and treating the amount transferred from a plan qualified under section 401(a) of the Internal Revenue Code of 1986, the member's account under an eligible deferred compensation plan within the meaning of section 457(b) of the Internal Revenue Code of 1986, or an individual retirement account, or the amount of the direct lump-sum payment to the Custodian of Retirement Funds, as if it were a mandatory employee contribution.

"(D) In addition to the foregoing, the maximum benefit and contributions shall be reduced, and the rate of benefit accrual shall be frozen or reduced accordingly, to the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code of 1986, with respect to a member who is also a participant in:

"(i) Another tax-qualified retirement plan maintained by the District, including a defined benefit plan in which an individual medical benefit account as

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described in section 415(l) of the Internal Revenue Code of 1986 has been established for the member;

"(ii) A welfare plan maintained by the District in which a separate account, as described in section 419A(d) of the Internal Revenue Code of 1986, has been established to provide post-retirement medical benefits for the member; or

"(iii) A retirement or welfare plan, as previously mentioned, maintained by an affiliated or predecessor employer, as described in regulations under section 415 of the Internal Revenue Code of 1986, or otherwise required to be taken into account under these regulations.

"(E) If a member has distributions commencing at more than one date, determined in accordance with section 415 of the Internal Revenue Code of 1986 and associated regulations, the annuity payable having this commencement date shall satisfy the limitations of this paragraph as of each date, actuarially adjusting for past and future distributions of benefits commencing at the other dates that benefits commence.

"(F) The application of the provisions of this paragraph shall not cause the maximum permissible benefit for a member to be less than the member's annuity under this act as of the end of the last limitation year beginning before July 1, 2007 under provisions of this act that were both adopted and in effect before April 5, 2007 and that satisfied the limitations under section 415 of the Internal Revenue Code of 1986 as in effect as of the end of the last limitation year beginning before July 1, 2007.

"(G) To the extent that a member's benefit is subject to provisions of section 415 of the Internal Revenue Code that have not been set forth in this act, the provisions are hereby incorporated by reference and for all purposes shall be deemed a part of this act.

"(3) Notwithstanding any other provision to the contrary, all death benefit payments referred to in this subsection shall be distributed only in accordance with section 401(a)(9) of the Internal Revenue Code of 1986 and accompanying Treasury regulations, as more fully set forth in section 12(n-3).

"(4) For the purposes of this subsection, the term:

"(A) "Annual additions" means the sum of the following items credited to the member under this act and any other tax-qualified retirement plan sponsored by the District for a limitation year and treated as a defined contribution plan for purposes of section 415 of the Internal Revenue Code of 1986: District contributions that are separately allocated to the member's credit in an defined contribution plan; forfeitures; member contributions; and amounts credited after March 31, 1984 to a member's individual medical account within the meaning of section 415(l) of the Internal Revenue Code of 1986.

"(B) "Defined benefit dollar limit" means the dollar limit imposed by section 415(b)(1)(A) of the Internal Revenue Code of 1986, as adjusted pursuant to section 415(d) of the Internal Revenue Code of 1986. The defined benefit dollar limit as set forth above is the monthly amount payable in the form of a straight life annuity, beginning no earlier than age 62, except as provided in paragraph (2)(B)(ii)(I) of this subsection, and no later than age 65. In the case of a monthly amount payable in a form other than a straight life annuity, or beginning before age 62 or after age 65, the adjustments in paragraph (2)(B) of this subsection shall apply.

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"(C) "Dollar limit" means the dollar limit on annual additions imposed by section 415(c)(1)(A) of the Internal Revenue Code of 1986, as adjusted pursuant to section 415(d) of the Internal Revenue Code of 1986.

"(D) "Remuneration" means a member's wages as defined in section 3401(a) of the Internal Revenue Code of 1986 and other payments of salary to the member from the District, for which the District is required to furnish the member a written statement under sections 6041(d) and 6051(a)(3) of the Internal Revenue Code of 1986. For this purpose:

"(i) Remuneration shall be determined without regard to rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed.

"(ii) Remuneration shall include an amount that would otherwise be deemed remuneration under this definition but for the fact that it is subject to a salary reduction agreement under a plan described in sections 457(b), 132(f) or 125 of the Internal Revenue Code of 1986.

"(iii) Remuneration with respect to any limitation year shall in no event exceed the dollar limit specified in section 401(a)(17) of the Internal Revenue Code of 1986, as adjusted from time to time by the Secretary of the Treasury. The cost-of-living adjustment in effect for a calendar year applies to remuneration for the limitation year that begins with or within such calendar year."

(g) New sections 12(n-3), 12(n-4), and 12(n-5) are added to read as follows:

"Sec. 12(n-3). Required minimum distributions.

"(1) Distributions shall begin no later than the member's required beginning date, as defined in section 401(a)(9) of the Internal Revenue Code of 1986, and shall be made in accordance with all other requirements of section 401(a)(9) of the Internal Revenue Code of 1986. The provisions of this subsection shall apply for the purposes of determining minimum required distributions under section 401(a)(9) of the Internal Revenue Code of 1986 and take precedence over any inconsistent provisions of this act; provided, that these provisions are intended solely to reflect the requirements of section 401(a)(9) of the Internal Revenue Code of 1986 and accompanying Treasury regulations and are not intended to provide or expand, and shall not be construed as providing or expanding, a benefit or distribution option not otherwise expressly provided for under the terms of this act. The provisions of this subsection shall apply only to the extent required under section 401(a)(9) of the Internal Revenue Code of 1986 as applied to a governmental plan, and if special rules for governmental plans are not set forth herein, the special rules are incorporated by reference and shall for all purposes be deemed a part of this act.

"(2)(A) The member's entire interest shall be distributed or begin being distributed to the member no later than April 1 following the later of:

"(i) The calendar year in which the member attains age 70 ½; or

"(ii) The calendar year in which the member retires or terminates employment (the "required beginning date").

"(B) If the member dies before distributions begin, the member's entire interest shall be distributed, or will begin to be distributed, no later than as follows:

ENROLLED ORIGINAL

"(i) If the member's surviving spouse is the sole designated beneficiary, distributions to the surviving spouse shall begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by December 31 of the calendar year in which the member would have attained age 70½, if later;

"(ii) If the member's surviving spouse is not the sole designated beneficiary, distributions to the designated beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the member died;

"(iii) If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's entire interest shall be distributed by December 31 of the calendar year of the 5th anniversary of the member's death;

"(iv) If the member's surviving spouse is the sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, sub-subparagraph (i) of this subparagraph shall not apply, and sub-subparagraphs (ii) and (iii) of this subparagraph shall apply as if the surviving spouse were the member. For the purposes of this subparagraph and paragraph (4) of this subsection, distributions are considered to begin on the member's required beginning date or, if this sub-subparagraph applies, the date distributions to the surviving spouse are required to begin under sub-subparagraph (i) of this subparagraph. If annuity payments to the member irrevocably commence before the member's required beginning date or to the member's surviving spouse before the date distributions to the surviving spouse are required to begin under sub-subparagraph (i) of this subparagraph, the date distributions are considered to begin is the date distributions actually commence.

"(C) Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution, calendar year distributions will be made in accordance with paragraphs (3) and (4) of this subsection. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions of the annuity will be made in accordance with the requirements of section 401(a)(9) of the Internal Revenue Code of 1986 and applicable Treasury regulations. Any part of the member's interest that is in the form of an individual account described in section 414(k) of the Internal Revenue Code of 1986 shall be distributed in a manner satisfying the requirements of section 401(a)(9) of the Internal Revenue Code of 1986 and the Treasury regulations that apply to individual accounts.

"(3)(A) The amount of the annuity is to be determined each year.

"(B) If the member's interest is paid in the form of annuity distributions, payments under the annuity shall satisfy the following requirements:

"(i) The annuity distributions shall be paid in periodic payments made at intervals not longer than one year;

"(ii) Payments will either be non-increasing or increase only as follows:

"(I) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index based on prices of all items (the CPI-W) and issued by the Bureau of Labor Statistics;

ENROLLED ORIGINAL

"(II) To provide cash refunds of employee contributions upon the teacher's death;

"(III) To pay increased benefits that result from an amendment to this act.

"(C) The amount that must be distributed on or before the member's required beginning date or, if the member dies before distributions begin, the date distributions are required to begin under paragraph (2)(B)(i) or (ii) of this subsection, is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received (for example, bi-monthly, monthly, semi-annually, or annually). All of the member's benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.

"(D) Additional benefits accruing to the member in a calendar year after the first distribution calendar year shall be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

"(4) Amounts payable if a member dies before distribution begins are subject to the following requirements:

"(A) If the member dies before the date of distribution of his or her interest begins and there is a designated beneficiary, the member's entire interest shall be distributed, beginning no later than the time described in paragraph (2)(B)(i) or (ii) of this subsection, over the life of the designated beneficiary not exceeding either of the following:

"(i) Unless the benefit commenced is before the first distribution calendar year, the life expectancy of the designated beneficiary, determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the teacher's death; or

"(ii) If the benefit commenced before the first distribution calendar year, the life expectancy of the designated beneficiary, determined using the beneficiary's age as of his or her birthday in the calendar year that begins before benefits commence; or

"(B) If the member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the member's death, distribution of the member's entire interest shall be completed by December 31 of the calendar year of the fifth anniversary of the member's death; or

"(C) If the member dies before the date distribution of his or her interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this paragraph shall apply as if the surviving spouse were the member, except that the time by which distributions must begin shall be determined without regard to paragraph (2)(B)(i) of this subsection.

"Sec. 12(n-4). Disposition of forfeitures.

Forfeitures in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of the District of Columbia Retirement Reform Act, approved

ENROLLED ORIGINAL

November 17, 1979 (93 Stat. 866; D.C. Official Code § 1-712), shall not be applied to increase the annuity of a person, but rather, shall be applied to pay administrative expenses, if and as directed by the District of Columbia Retirement Board, or used to reduce the District's contributions.

"Sec. 12(n-5). Funds not assignable or subject to execution.


Except as provided in the District of Columbia Spouse Equity Act of 1988, effective March 16, 1989 (D.C. Law 7-214; D.C. Official Code § 1-529.01), none of the money mentioned in this act, including any assets of the District of Columbia Police Officers and Fire Fighters' Retirement Fund, shall be assignable, either in law or equity, or be subject to execution of levy by attachment, garnishment, or other legal process except with respect to a domestic relations order that substantially meets all of the requirements of section 414(p) of the Internal Revenue Code of 1986, as determined solely by the District of Columbia Retirement Board."

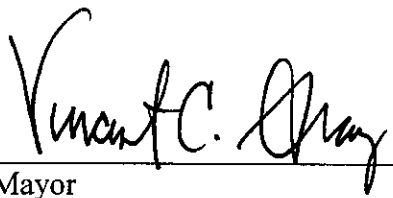
Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
March 1, 2013

BILLS con't

- B20-170 Firearm Insurance Amendment Act of 2013
- Intro. 03-05-13 by Councilmember Cheh and referred sequentially to the Committee on Business, Consumer, and Regulatory Affairs and the Committee on Judiciary and Public Safety
-
- B20-171 District of Columbia Statehood Advocacy Act of 2013
- Intro. 03-05-13 by Councilmembers Orange, Alexander, Barry, Bonds and Graham and referred to the Committee of the Whole
-
- B20-172 Mayor and Attorney General Reprimand, Censure and Expulsion Amendment Act of 2013
- Intro. 03-05-13 by Councilmembers Orange and Graham and referred to the Committee of the Whole
-
- B20-173 Thurgood Marshall Early Education Learning Academy Act of 2013
- Intro. 03-05-13 by Councilmembers Orange and Barry and referred to the Committee on Education
-
- B20-174 Medicaid Reimbursement for Chiropractic Services Act of 2013
- Intro. 03-05-13 by Councilmembers Alexander, Barry and Bonds and referred to the Committee on Health
-
- B20-175 Health Professional Recruitment Program Amendment Act of 2013
- Intro. 03-05-13 by Councilmembers Alexander, Barry, Bonds, McDuffie and Orange and referred to the Committee on Health
-
- B20-176 Uniform Electronic Prior Authorization Form Amendment Act of 2013
- Intro. 03-05-13 by Councilmembers Alexander, Barry, Cheh and McDuffie and referred to the Committee on Business, Consumer, and Regulatory Affairs with comments from the Committee on Health
-
- B20-177 Older Adult Driver Safety Amendment Act of 2013
- Intro. 03-05-13 by Councilmembers Wells and Cheh and referred to the Committee on Transportation and the Environment
-

BILLS con't

B20-178 Compulsory Pre-School Attendance Amendment Act of 2013

Intro. 03-05-13 by Councilmember Barry and referred to the Committee on Education

B20-179 District of Columbia Work Release Amendment Act of 2013

Intro. 03-05-13 by Councilmember Barry and referred to the Committee on Judiciary and Public Safety

B20-180 D.C. Health Corps Act of 2013

Intro. 03-05-13 by Councilmember Barry and referred to the Committee on Education

B20-181 Small and Certified Business Enterprise Development and Assistance Amendment Act of 2013

Intro. 03-07-13 by Councilmember Orange and referred to the Committee on Business, Consumer, and Regulatory Affairs

PROPOSED RESOLUTIONS

PR 20-112 Board of Pharmacy Corrie D. Franks Confirmation Resolution of 2013

Intro. 03-01-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

PR20-113 District of Columbia Building Code Supplement Amendment Resolution of 2013

Intro. 03-01-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs

PR20-121 Sense of the Council in Support of Earth Hour Resolution of 2013

Intro. 03-05-13 by Councilmembers Evans, Orange, Bonds, Cheh, McDuffie, Alexander, Catania, Grosso, Graham, Bowser, Wells, Barry and Chairman Mendelson and retained by the Council

PROPOSED RESOLUTIONS

PR20-122 District of Columbia State Plan for Medical Assistance Modification Approval Resolution of 2013

Intro. 03-04-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Health

PR20-123 Center for Global Development Revenue Bonds Project Approval Resolution of 2013

Intro. 03-05-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Finance and Revenue

PR20-124 Commission on Asian and Pacific Islander Community Development Ada L. Loo Confirmation Resolution of 2013

Intro. 03-07-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Workforce and Community Affairs

PR20-125 Vending Business License Regulation Resolution of 2013

Intro. 03-08-13 by Chairman Mendelson at the request of the Mayor and referred to the Committee on Business, Consumer, and Regulatory Affairs with comments from the Committee on Transportation and the Environment

**Council of the District of Columbia
Committee on Health
Notice of Public Hearing
1350 Pennsylvania Ave., N.W., Washington, D.C. 20004**

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE**

on

Bill 20-101, "The Patient Protection Act of 2013"

on

**Tuesday, May 14, 2013
11:00 a.m., Room 500, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health, announces a public oversight roundtable on Bill 20-101, the "Patient Protection Act of 2013." The public hearing will be held at 11:00 a.m. on Tuesday, May 14, 2013 in Room 500 of the John A. Wilson Building.

Bill 20-101 has been referred to the Committee on Health. The stated purpose of Bill 20-101 is to require an acute care general hospital or psychiatric hospital to submit to the Department of Health a staffing plan that provides sufficient, appropriately qualified nursing staff in each unit within the facility; establish and implement an acuity system for addressing fluctuations in actual patient acuity levels and nursing care requirements requiring increased staffing levels; require the Department of Health to set minimal levels of nurse staffing and registered nurse staff ratios for schools.

Those who wish to testify should contact Rayna Smith, Committee Director, at (202) 741-2111 or via e-mail at rsmith@dccouncil.us and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Monday, May 13, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Monday, May 13, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Rayna Smith, Committee Director, Room 115 of the Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004. The record will close at 5:00 p.m. on Tuesday, May 20, 2013.

**COUNCIL OF THE DISTRICT OF COLUMBIA
 NOTICE OF PUBLIC HEARINGS
 FISCAL YEAR 2014 PROPOSED BUDGET AND FINANCIAL PLAN,
 FISCAL YEAR 2014 BUDGET SUPPORT ACT OF 2013,
 FISCAL YEAR 2014 BUDGET REQUEST ACT OF 2013, AND
 COMMITTEE MARK-UP SCHEDULE
 (03-12-13)**

SUMMARY

March 28, 2013	Mayor Transmits the FY 2014 Proposed Budget and Financial Plan
April 8, 2013	Committee of the Whole Public Briefing on the Mayor's Fiscal Year 2014 Proposed Budget and Financial Plan
April 10, 2013 to May 2, 2013	Committee Public Hearings on the "Fiscal Year 2014 Budget Request Act of 2013." (The Committees may also simultaneously receive testimony on the sections of the Fiscal Year 2014 Budget Support Acts that affect the agencies under each Committee's purview)
May 3, 2013	Committee of the Whole Public Hearing on the "Fiscal Year 2014 Budget Request Act of 2013" and the "Fiscal Year 2014 Budget Support Act of 2013"
May 6, 8, and May 9, 2013	Committee Mark-ups and Reporting on Agency Budgets for Fiscal Year 2014
May 22, 2013	Committee of the Whole and Council consideration of the "Fiscal Year 2014 Budget Request Act of 2013", and the "Fiscal Year 2014 Budget Support Act of 2013"
TBD	Council considers the "Fiscal Year 2014 Budget Support Act of 2013" for second reading

The Council of the District of Columbia hereby gives notice of its intention to hold public hearings on the FY 2014 Proposed Budget and Financial Plan, the "Fiscal Year 2012 Budget Request Act of 2013", and the "Fiscal Year 2012 Budget Support Act of 2013". The hearings will begin Wednesday, April 10, 2013 and conclude on Thursday, May 2, 2013 and will take place in the Council Chamber (Room 500), Room 412, Room 120, or Room 123 of the John A. Wilson Building; 1350 Pennsylvania Avenue, N.W.; Washington, DC 20004.

The Committee mark-ups will begin Monday, May 6, 2013 and conclude on Thursday, May 9, 2013 and will take place in the Council Chamber (Room 500) of the John A. Wilson Building; 1350 Pennsylvania Avenue, N.W.; Washington, DC 20004.

Persons wishing to testify are encouraged, but not required, to submit written testimony in advance of each hearing to Nyasha Smith, Secretary to the Council of the District of Columbia; Suite 5; John A. Wilson Building; 1350 Pennsylvania Avenue, N.W.; Washington, DC 20004. If a written statement cannot be provided prior to the day of the hearing, please have at least 20 copies of your written statement available on the day of the hearing for immediate distribution to the Council. The hearing record will close two business days following the conclusion of each respective hearing. Persons submitting written statements for the record should observe this deadline. For more information about the Council's budget oversight hearing and mark-up schedule please contact the Council's Office of the Budget Director at (202) 724-8139.

PUBLIC HEARING SCHEDULE

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

MONDAY, APRIL 8, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Subject
10:00 a.m. - End	Committee of the Whole Public Briefing on the Mayor's Fiscal Year 2014 Proposed Budget

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

Chairperson Tommy Wells

WEDNESDAY, APRIL 10, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	Judicial Nomination Commission
	Department of Corrections
	Corrections Information Council
	Office on Returning Citizens
	Homeland Security and Management Agency

Persons wishing to testify about the performance of any of the foregoing agencies may contact Tawanna Shuford, Committee on the Judiciary and Public Safety at 724-7808 or e-mail: tshuford@dccouncil.us.

COMMITTEE ON EDUCATION

Chairperson David Catania

WEDNESDAY, APRIL 10, 2013; ROOM 123	
Time	Agency
10:00 a.m. - End	District of Columbia Public Library Deputy Mayor for Education

Persons wishing to testify about the performance of any of the foregoing agencies may contact Brendan Williams-Kief, Committee on Education at 724-8061 or email: bwilliamskief@dccouncil.us.

COMMITTEE ON HEALTH

Chairperson Yvette Alexander

WEDNESDAY, APRIL 10, 2013; ROOM 120	
TIME	AGENCY
10:00 a.m. - End	Department of Health

Persons wishing to testify about the performance of any of the foregoing agencies may contact Rayna Smith, Committee on Health at 741-2111 or e-mail: rsmith@dccouncil.us.

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

THURSDAY, APRIL 11, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
11:00 a.m. - 2:30 p.m.	Metropolitan Washington Council of Governments
	Office of Labor Relations and Collective Bargaining
	Office of Budget and Planning
	Council of the District of Columbia

Persons wishing to testify about the performance of any of the foregoing agencies may contact Renee Johnson, Committee of the Whole at 724-8092 or e-mail: rjohnson@dccouncil.us.

COMMITTEE ON HEALTH

Chairperson Yvette Alexander

THURSDAY, APRIL 11, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	Department of Health Care Finance

Persons wishing to testify about the performance of any of the foregoing agencies may contact Rayna Smith, Committee on Health at 741-2111 or e-mail: rsmith@dccouncil.us.

COMMITTEE ON GOVERNMENT OPERATIONS

Chairperson Kenyan McDuffie

THURSDAY, APRIL 11, 2013; ROOM 123	
Time	Agency
10:00 a.m. - End	Department of Human Resources
	District of Columbia Board of Elections
	Disability Compensation Fund
	Office of Employee Appeals
	Office of Risk Management
	Public Employees Relations Board

Persons wishing to testify about the performance of any of the foregoing agencies may contact Ronan Gulstone, Committee on Government Operations at 724-4902 or email: rgulstone@dccouncil.us.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

Chairperson Mary Cheh

FRIDAY, APRIL 12, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
11:00 a.m. - End	Department of Motor Vehicles
	Department of Public Works

Persons wishing to testify about the performance of any of the foregoing agencies may contact Ms. Aukima Benjamin, Committee on Transportation and the Environment at 724-8062 or e-mail: abenjamin@dccouncil.us.

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

FRIDAY, APRIL 12, 2013; ROOM 412	
Time	Agency
12:00 p.m. - End	Office of Zoning
	Office of Planning

Persons wishing to testify about the performance of any of the foregoing agencies may contact Jessica Jacobs, Committee of the Whole at 724-8038 or e-mail: jjacobs@dccouncil.us.

COMMITTEE ON HUMAN SERVICES

Chairperson Jim Graham

MONDAY, APRIL 15, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - 5:00 p.m	Department of Youth Rehabilitation Services

Persons wishing to testify about the performance of any of the foregoing agencies may contact Malcolm Cameron, Committee on Human Services at 724-8191 or e-mail: mcameron@dccouncil.us.

COMMITTEE ON EDUCATION

Chairperson David Catania

WEDNESDAY, APRIL 17, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	District of Columbia Public Schools (Public Witnesses Only)

Persons wishing to testify about the performance of any of the foregoing agencies may contact Brendan Williams-Kief, Committee on Education at 724-8061 or email: bwilliamskief@dccouncil.us.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

Chairperson Tommy Wells

WEDNESDAY, APRIL 17, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	Commission on Judicial Disabilities and Tenure
	Office of Unified Communications
	Fire and Emergency Medical Services Department
	Office of Victim Services
	Justice Grants Administration

Persons wishing to testify about the performance of any of the foregoing agencies may contact Tawanna Shuford, Committee on the Judiciary and Public Safety at 724-7808 or e-mail: tshuford@dccouncil.us.

COMMITTEE ON HEALTH

Chairperson Yvette Alexander

THURSDAY, APRIL 18, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	Department of Mental Health
	Office of the Deputy Mayor for Health and Human Services

Persons wishing to testify about the performance of any of the foregoing agencies may contact Rayna Smith, Committee on Health at 741-2111 or e-mail: rsmith@dccouncil.us.

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

THURSDAY, APRIL 18, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	District of Columbia Retirement Board
	Contract Appeals Board
	Office of Contracting and Procurement

Persons wishing to testify about the performance of any of the foregoing agencies may contact Jessica Jacobs, Committee of the Whole at 724-8038 or e-mail: jjacobs@dccouncil.us.

COMMITTEE ON HUMAN SERVICES

Chairperson Jim Graham

THURSDAY, APRIL 18, 2013; COUNCIL CHAMBER (ROOM 123)	
Time	Agency
11:00 a.m. - 5:00 p.m.	Children and Youth Investment Trust Corporation

Persons wishing to testify about the performance of any of the foregoing agencies may contact Malcolm Cameron, Committee on Human Services at 724-8191 or e-mail: mcameron@dccouncil.us.

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

FRIDAY, APRIL 19, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
1:00 p.m. - End	District of Columbia Auditor
	University of the District of Columbia
	DC Community College

Persons wishing to testify about the performance of any of the foregoing agencies may contact Jessica Jacobs, Committee of the Whole at 724-8038 or e-mail: jjacobs@dccouncil.us.

COMMITTEE ON HUMAN SERVICES

Chairperson Jim Graham

FRIDAY, APRIL 19, 2013; ROOM 412	
Time	Agency
11:00 a.m. - End	Department of Human Services

Persons wishing to testify about the performance of any of the foregoing agencies may contact Malcolm Cameron, Committee on Human Services, at 724-8191 or e-mail: mcameron@dccouncil.us.

COMMITTEE ON HEALTH

Chairperson Yvette Alexander

FRIDAY, APRIL 19, 2013; ROOM 123	
Time	Agency
10:00 a.m. - End	Not-For-Profit Hospital Corporation

Persons wishing to testify about the performance of any of the foregoing agencies may contact Rayna Smith, Committee on Health at 741-2111 or e-mail: rsmith@dccouncil.us.

COMMITTEE ON WORKFORCE & COMMUNITY

Chairperson Marion Barry

FRIDAY, APRIL 19, 2013; ROOM 120	
Time	Agency
10:00 a.m. - End	Office of Latino Affairs and the Commission on Latino Community Development
	Office of Asian and Pacific Islander Affairs
	Office of Veteran Affairs
	Office of Human Rights
	Commission on Human Rights
	Office of Community Affairs
	Office of African Affairs
	Commission for Women's Policy & Initiative
	Office of Gay, Lesbian, Bisexual & Transgender (GLBT) Affairs
	Office of Religious Affairs/Interfaith Council
	DC Youth Advisory Council
DC Mayors One Neighborhood Engagement	

Persons wishing to testify about the performance of any of the foregoing agencies may contact Garret King, Committee on Workforce and Community Affairs at 741-0948 or email: gking@dccouncil.us.

COMMITTEE ON ECONOMIC DEVELOPMENT

Chairperson Muriel Bowser

MONDAY, APRIL 22, 2013; COUNCIL CHAMBERS (ROOM 500)	
Time	Agency
10:00 a.m. - End	Washington Area Metropolitan Transit Authority
	Housing Finance Agency
	District of Columbia Housing Authority
	Office of Cable Television

Persons wishing to testify about the performance of any of the foregoing agencies may contact Rob Hawkins, Committee on Economic Development at 724-8198 or email: rhawkins@dccouncil.us.

COMMITTEE ON GOVERNMENT OPERATIONS

Chairperson Kenyan McDuffie

MONDAY, APRIL 22, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	Advisory Neighborhood Commissions
	Board of Ethics and Government Accountability
	Office of Campaign Finance
	Office of the Inspector General

Persons wishing to testify about the performance of any of the foregoing agencies may contact Ronan Gulstone, Committee on Government Operations at 724-4902 or email: rgulstone@dccouncil.us.

COMMITTEE ON EDUCATION

Chairperson David Catania

MONDAY, APRIL 22, 2013; ROOM 123	
Time	Agency
10:00 a.m. - End	Office of the State Superintendent of Education
	State Board of Education
	Bullying Prevention Task Force
	Healthy Youth and Schools Commission

Persons wishing to testify about the performance of any of the foregoing agencies may contact Brendan Williams-Kief, Committee on Education at 724-8061 or e-mail: bwilliamskief@dccouncil.us.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

Chairperson Mary Cheh

MONDAY, APRIL 22, 2013; ROOM 120	
Time	Agency
11:00 a.m. - End	District Department of the Environment
	District of Columbia Taxicab Commission

Persons wishing to testify about the performance of any of the foregoing agencies may contact Ms. Aukima Benjamin, Committee on Transportation and the Environment at 724-8062 or e-mail: abenjamin@dccouncil.us.

COMMITTEE ON FINANCE & REVENUE

Chairperson Jack Evans

WEDNESDAY, APRIL 24, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	Washington Convention and Sports Authority/Events DC
	Destination DC
	Commission on Arts and Humanities

Persons wishing to testify about the performance of any of the foregoing agencies may contact Sarina Loy, Committee on Finance and Revenue at 724-8058 or e-mail: sloy@dccouncil.us.

COMMITTEE ON ECONOMIC DEVELOPMENT

Chairperson Muriel Bowser

WEDNESDAY, APRIL 24, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	Office of the Deputy Mayor for Planning and Economic Development
	Department of Housing and Community Development

Persons wishing to testify about the performance of any of the foregoing agencies may contact Rob Hawkins, Committee on Economic Development at 724-8198 or email: rhawkins@dccouncil.us.

COMMITTEE ON HUMAN SERVICES

Chairperson Jim Graham

WEDNESDAY, APRIL 24, 2013; ROOM 123	
Time	Agency
11:00 a.m. - End	Child and Family Services Agency

Persons wishing to testify about the performance of any of the foregoing agencies may contact Malcolm Cameron, Committee on Human Services, at 724-8191 or e-mail: mcameron@dccouncil.us.

COMMITTEE ON BUSINESS, CONSUMER & REGULATORY AFFAIRS

Chairperson Vincent Orange

THURSDAY, APRIL 25, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	Department of Consumer and Regulatory Affairs
	Department of Small and Local Business
	Department of Insurance, Securities and Banking
	Alcohol Beverage and Regulatory Affairs

Persons wishing to testify about the performance of any of the foregoing agencies may contact Gene Fisher, Committee on Business, Consumer and Regulatory Affairs at 727-6683 or email: gfisher@dccouncil.us.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

Chairperson Tommy Wells

THURSDAY, APRIL 25, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	Sentencing and Criminal Code Revision Commission
	Criminal Justice Coordinating Council
	Access to Justice Initiative
	Office of the Attorney General
	Office of Administrative Hearings
	Office of the Chief Medical Examiner

Persons wishing to testify about the performance of any of the foregoing agencies may contact Tawanna Shuford, Committee on the Judiciary and Public Safety at 724-7808 or e-mail: tshuford@dccouncil.us.

COMMITTEE ON GOVERNMENT OPERATIONS

Chairperson Kenyan McDuffie

THURSDAY, APRIL 25, 2012; ROOM 123	
Time	Agency
10:00 a.m. - End	Department of General Services
	Office of Partnerships and Grants Services
	Office of People's Counsel
	Public Service Commission

Persons wishing to testify about the performance of any of the foregoing agencies may contact Ronan Gulstone, Committee on Government Operations at 724-4902 or email: rgulstone@dccouncil.us.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

Chairperson Mary Cheh

FRIDAY, APRIL 26, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	District Department of Transportation

Persons wishing to testify about the performance of any of the foregoing agencies may contact Ms. Aukima Benjamin, Committee on Transportation and the Environment at 724-8062 or e-mail: abenjamin@dccouncil.us.

COMMITTEE ON BUSINESS, CONSUMER & REGULATORY AFFAIRS Chairperson Vincent Orange

FRIDAY, APRIL 26, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	Office of Motion Picture and Television
	Office of Tenant Advocate
	Boxing and Wrestling Commission
	Public Access Corporation
	Financial Literacy Council

Persons wishing to testify about the performance of any of the foregoing agencies may contact Gene Fisher, Committee on Business, Consumer and Regulatory Affairs at 727-6683 or email: gfisher@dccouncil.us.

COMMITTEE ON EDUCATION Chairperson David Catania

FRIDAY, APRIL 26, 2013; ROOM 123	
Time	Agency
10:00 a.m. - End	District of Columbia Public Charter School Board

Persons wishing to testify about the performance of any of the foregoing agencies may contact Brendan Williams-Kief, Committee on Education at 724-8061 or email: bwilliamskief@dccouncil.us.

COMMITTEE ON HUMAN SERVICES Chairperson Jim Graham

MONDAY, APRIL 29, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
11:00 a.m. - End	Office of Disability Rights
	Department on Disability Services

Persons wishing to testify about the performance of any of the foregoing agencies may contact Malcolm Cameron, Committee on Human Services, at 724-8191 or e-mail: mcameron@dccouncil.us.

COMMITTEE ON WORKFORCE & COMMUNITY AFFAIRS Chairperson Marion Barry

MONDAY, APRIL 29, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	Office on Aging
	Commission on Aging
	Department of Parks and Recreation

Persons wishing to testify about the performance of any of the foregoing agencies may contact Garret King, Committee on Workforce and Community Affairs at 741-0948 or email: gking@dccouncil.us.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY Chairperson Tommy Wells

MONDAY, APRIL 29, 2013; ROOM 120	
Time	Agency
10:00 a.m. - End	National Guard
	Deputy Mayor for Public Safety and Justice
	Department of Forensic Sciences
	Metropolitan Police Department
	Office of Police Complaints

Persons wishing to testify about the performance of any of the foregoing agencies may contact Tawanna Shuford, Committee on the Judiciary and Public Safety at 724-7808 or e-mail: tshuford@dccouncil.us.

COMMITTEE ON FINANCE & REVENUE **Chairperson Jack Evans**

TUESDAY, APRIL 30, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	Office of the Chief Financial Officer
	Office of Finance and Treasury
	Office of Financial Management & Operations
	Office of Tax and Revenue
	District of Columbia Lottery and Charitable Games Control Board
	Real Property Tax Appeals Commission for the District of Columbia

Persons wishing to testify about the performance of any of the foregoing agencies may contact Sarina Loy, Committee on Finance and Revenue at 724-8058 or e-mail: sloy@dccouncil.us.

COMMITTEE ON WORKFORCE & COMMUNITY AFFAIRS **Chairperson Marion Barry**

WEDNESDAY, MAY 1, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	Workforce Investment Council
	Department of Employment Services

Persons wishing to testify about the performance of any of the foregoing agencies may contact Garret King, Committee on Workforce and Community Affairs at 741-0948 or email: gking@dccouncil.us.

COMMITTEE ON GOVERNMENT OPERATIONS **Chairperson Kenyan McDuffie**

THURSDAY, MAY 2, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	Executive Office of the Mayor
	Office of Policy and Legislative Affairs
	Serve DC
	Office of Community Affairs
	Office of the City Administrator
	Office of the Chief Technology Officer
	Secretary of the District of Columbia
	Notaries Public Board of Review

Persons wishing to testify about the performance of any of the foregoing agencies may contact Ronan Gulstone, Committee on Government Operations at 724-4902 or email: rgulstone@dccouncil.us.

COMMITTEE ON EDUCATION **Chairperson David Catania**

THURSDAY, MAY 2, 2013; COUNCIL CHAMBER (ROOM 412)	
Time	Agency
10:00 a.m. - End	District of Columbia Public Schools (Government Witnesses Only)

Persons wishing to testify about the performance of any of the foregoing agencies may contact Brendan Williams-Kief, Committee on Education at 724-8061 or email: bwilliamskief@dccouncil.us.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

FRIDAY, MAY 3, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Subject
10:00 a.m. - End	Committee of the Whole Public Hearing on the "Fiscal Year 2014 Budget Request Act of 2013" and the "Fiscal Year 2014 Budget Support Act of 2013"

COMMITTEE MARK-UP SCHEDULE

MONDAY, MAY 6, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Committee
10:00 a.m. - 12:00 p.m.	Economic Development
12:00 p.m. - 2:00 p.m.	Health
2:00 p.m. - 4:00 p.m.	Human Services

WEDNESDAY, MAY 8, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Committee
10:00 a.m. - 12:00 p.m.	Business, Consumer & Regulatory Affairs
12:00 p.m. - 2:00 p.m.	Workforce & Community Affairs
2:00 p.m. - 4:00 p.m.	Finance & Revenue
5:00 p.m. - End	Judiciary & Public Safety

THURSDAY, MAY 9, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Committee
10:00 a.m. - 12:00 p.m.	Education
12:00 p.m. - 2:00 p.m.	Transportation and the Environment
2:00 p.m. - 4:00 p.m.	Government Operations
4:00 p.m. - End	Committee of the Whole

Addendum of Changes to Schedule:

<u>New Date</u>	<u>Original Date</u>	<u>Hearing</u>
<i>Deleted</i>	<i>April 10, 2013</i>	<i>Committee on Human Services (ABRA)</i>
<i>May 3, 2013</i>	<i>April 30, 2013</i>	<i>Committee on Education</i>
<i>April 18, 2013</i>	<i>April 15, 2013</i>	<i>Committee on Human Services</i>
<i>Deleted</i>	<i>April 29, 2013</i>	<i>Committee on Business, Consumer & Regulatory Affairs</i>
<i>April 26, 2013</i>	<i>April 25, 2013</i>	<i>Committee on Business, Consumer & Regulatory Affairs (Office of Motion Picture & Television & Office of Tenant Advocate)</i>
<i>April 25, 2013</i>	<i>April 10, 2013</i>	<i>Committee on Business, Consumer & Regulatory Affairs (ABRA)</i>

COUNCIL OF THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARINGS
AGENCY PERFORMANCE OVERSIGHT HEARINGS
FISCAL YEAR 2012-2013

03-12-2013

SUMMARY

- | | |
|--|---|
| January 29, 2013 | Fiscal Year 2012 Comprehensive Annual Financial Report (CAFR) Released. |
| February 6, 2013 | Committee of the Whole Public Briefing on the Fiscal Year 2012 Comprehensive Annual Financial Report (CAFR) 9:30 a.m. in Room 500 |
| February 11, 2013 to
March 15, 2013 | Agency Performance Oversight Hearings on Fiscal Year 2012-2013 |

The Council of the District of Columbia hereby gives notice of its intention to hold public oversight hearings on agency performances for FY 2012 and FY 2013. The hearings will begin Monday, February 11, 2013 and conclude on Friday, March 15, 2013 and will take place in the Council Chamber (Room 500), Room 412, Room 120, and Room 123 of the John A. Wilson Building; 1350 Pennsylvania Avenue, N.W.; Washington, DC 20004.

Persons wishing to testify are encouraged, but not required, to submit written testimony in advance of each hearing to Nyasha Smith, Secretary to the Council of the District of Columbia; Suite 5; John A. Wilson Building; 1350 Pennsylvania Avenue, N.W.; Washington, DC 20004. If a written statement cannot be provided prior to the day of the hearing, please have at least 20 copies of your written statement available on the day of the hearing for immediate distribution to the Council. The hearing record will close two business days following the conclusion of each respective hearing. Persons submitting written statements for the record should observe this deadline. For more information about the Council's budget performance oversight hearing schedule please contact the Council's Office of the Budget Director at (202) 724-8139.

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

WEDNESDAY, FEBRUARY 6, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Subject
9:30 a.m. - End	Committee of the Whole Public Briefing on the Fiscal Year 2013 Comprehensive Annual Financial Report (CAFR)

COMMITTEE ON BUSINESS, CONSUMER & REGULATORY AFFAIRS

Chairperson Vincent Orange

MONDAY, FEBRUARY 11, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	Department of Small and Local Business Development
	Department of Consumer and Regulatory Affairs
	Department of Insurance, Securities and Banking
	Office of Motion Picture and Television Development
	Office of Tenant Advocate

Persons wishing to testify about the performance of any of the foregoing agencies may contact Gene Fisher, Committee on Business, Consumer and Regulatory Affairs at 727-6683 or email: gfisher@dccouncil.us.

COMMITTEE ON GOVERNMENT OPERATIONS

Chairperson Kenyan McDuffie

TUESDAY, FEBRUARY 12, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	Department of Human Resources
	Disability Compensation Fund
	Office of Employee Appeals
	Office of Risk Management
	Public Employees Relations Board

Persons wishing to testify about the performance of any of the foregoing agencies may contact Ronan Gulstone, Committee on Government Operations at 724-4902 or email: rgulstone@dccouncil.us.

COMMITTEE ON EDUCATION

Chairperson David Catania

WEDNESDAY, FEBRUARY 13, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	Deputy Mayor for Education

Persons wishing to testify about the performance of any of the foregoing agencies may contact Brendan Williams-Kief, Committee on Education at 724-8061 or email: bwilliamskief@dccouncil.us.

COMMITTEE ON WORKFORCE & COMMUNITY AFFAIRS

Chairperson Marion Barry

THURSDAY, FEBRUARY 14, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	Office of Latino Affairs and Commission on Latino Community Development
	Office of Asian and Pacific Islander Affairs
	Office of Veteran Affairs
	Office of Human Rights
	Commission on Human Rights
	Office of Community Affairs
	Office of African Affairs
	Commission for Women's Policy and Initiative
	Office of Gay, Lesbian, Bisexual & Transgender (GLBT) Affairs
	Office of Religious Affairs/Interfaith Council
	DC Youth Advisory Council
DC Mayors One Neighborhood Engagement	

Persons wishing to testify about the performance of any of the foregoing agencies may contact Garret King, Committee on Workforce and Community Affairs at 741-0948 or email: gking@dccouncil.us.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Tommy Wells**
THURSDAY, FEBRUARY 14, 2013; COUNCIL CHAMBER (ROOM 500)

Time	Agency
10:00 a.m. - End	Judicial Nomination Commission
	Commission on Judicial Disabilities & Tenure
	Sentencing & Criminal Code Revision Commission
	Corrections Information Council
	Office on Ex-Offender Affairs
	Department of Corrections
	Office of Administrative Hearings
Homeland Security & Emergency Management Agency	

Persons wishing to testify about the performance of any of the foregoing agencies may contact Tawanna Shuford, Committee on the Judiciary and Public Safety at 724-7808 or e-mail: tshuford@dccouncil.us.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Tommy Wells**
WEDNESDAY, FEBRUARY 20, 2013; COUNCIL CHAMBER ROOM 500

Time	Agency
10:00 a.m. - End	Fire & Emergency Medical Services Department
	Office of Unified Communications
	National Guard
	Office of Victim Services
	Justice Grants Administration
	Criminal Justice Coordinating Council
	Deputy Mayor for Public Safety & Justice

Persons wishing to testify about the performance of any of the foregoing agencies may contact Tawanna Shuford, Committee on the Judiciary & Public Safety at 724-7808 or e-mail: tshuford@dccouncil.us.

COMMITTEE ON HUMAN SERVICES **Chairperson Jim Graham**
THURSDAY, FEBRUARY 21, 2013; ROOM 120

Time	Agency
10:00 a.m. - End	Alcoholic Beverage Regulation Administration

Persons wishing to testify about the performance of any of the foregoing agencies may contact Malcolm Cameron, Committee on Human Services at 724-8191 or e-mail: mcameron@dccouncil.us.

COMMITTEE ON WORKFORCE & COMMUNITY AFFAIRS **Chairperson Marion Barry**
THURSDAY, FEBRUARY 21, 2013; COUNCIL CHAMBER (ROOM 500)

Time	Agency
10:00 a.m. - End	Office on Aging
	Commission on Aging
	Department of Parks and Recreation

Persons wishing to testify about the performance of any of the foregoing agencies may contact Garret King, Committee on Workforce and Community Affairs at 741-0948 or email: gking@dccouncil.us.

COMMITTEE ON GOVERNMENT OPERATIONS **Chairperson Kenyan McDuffie**
WEDNESDAY, FEBRUARY 21, 2013; ROOM 412

Time	Agency
10:00 a.m. - End	Advisory Neighborhood Commissions
	Board of Ethics and Government Accountability
	District of Columbia Board of Elections
	Office of Campaign Finance
	Office of Inspector General

Persons wishing to testify about the performance of any of the foregoing agencies may contact Ronan Gulstone, Committee on Government Operations at 724-4902 or email: rgulstone@dccouncil.us.

COMMITTEE ON ECONOMIC DEVELOPMENT

Chairperson Muriel Bowser

FRIDAY, FEBRUARY 22, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	Department of Housing and Community Development
	Housing & Finance Agency
	Office of Cable Television

Persons wishing to testify about the performance of any of the foregoing agencies may contact Rob Hawkins, Committee on Economic Development at 724-8198 or email: rhawkins@dccouncil.us.

COMMITTEE ON EDUCATION

Chairperson David Catania

FRIDAY, FEBRUARY 22, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	District of Columbia Public Schools (Public Witness Only)

Persons wishing to testify about the performance of any of the foregoing agencies may contact Brendan Williams-Kief, Committee on Education at 724-8061 or email: bwilliamskief@dccouncil.us.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

Chairperson Mary Cheh

FRIDAY, FEBRUARY 22, 2013; ROOM 123	
Time	Agency
11:00 a.m. - End	Water And Sewer Authority
	Washington Aqueduct

Persons wishing to testify about the performance of any of the foregoing agencies may contact Ms. Aukima Benjamin, Committee on Transportation & the Environment at 724-8062 or e-mail: abenjamin@dccouncil.us.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT

Chairperson Mary Cheh

MONDAY, FEBRUARY 25, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
11:00 a.m. - End	District Department of the Environment
	District of Columbia Taxicab Commission

Persons wishing to testify about the performance of any of the foregoing agencies may contact Ms. Aukima Benjamin, Committee on Transportation & the Environment at 724-8062 or e-mail: abenjamin@dccouncil.us.

COMMITTEE ON BUSINESS, CONSUMER & REGULATORY AFFAIRS

Chairperson Vincent Orange

MONDAY, FEBRUARY 25, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	Boxing and Wrestling Commission
	Commission on Fashion Arts and Events
	Real Estate Commission
	Emancipation Commemoration Commission
	Public Access Corporation
	Financial Literacy Council
	Securities Advisory Committee
	Board of Consumer Claims Arbitration for the District of Columbia
	Construction Codes Coordinating Council

Persons wishing to testify about the performance of any of the foregoing agencies may contact Gene Fisher, Committee on Business, Consumer & Regulatory Affairs at 727-6683 or e-mail: gfisher@dccouncil.us.

COMMITTEE ON HUMAN SERVICES

Chairperson Jim Graham

TUESDAY, FEBRUARY 26, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
11:00 a.m.	Child and Family Services Agency

Persons wishing to testify about the performance of any of the foregoing agencies may contact Malcolm Cameron, Committee on Human Services, at 724-8191 or e-mail: mcameron@dccouncil.us.

COMMITTEE ON BUSINESS, CONSUMER & REGULATORY AFFAIRS

Chairperson Vincent Orange

TUESDAY, FEBRUARY 26, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	Board of Accountancy
	Board of Architecture and Interior Designers
	Board of Barber and Cosmetology
	Board of Condemnation and Insanitary Buildings
	Board of Funeral Directors
	Board of Industrial Trades
	Board of Professional Engineering
	Board of Real Estate Appraisers

Persons wishing to testify about the performance of any of the foregoing agencies may contact Gene Fisher, Committee on Business, Consumer & Regulatory Affairs at 727-6683 or email: gfisher@dccouncil.us.

COMMITTEE ON EDUCATION

Chairperson David Catania

WEDNESDAY, FEBRUARY 27, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	District of Columbia Public Library

Persons wishing to testify about the performance of any of the foregoing agencies may contact Brendan Williams-Kief, Committee on Education at 724-8061 or email: bwilliamskief@dccouncil.us.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

Chairperson Tommy Wells

WEDNESDAY, FEBRUARY 27, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	Metropolitan Police Department
	Office of Police Complaints
	Department of Forensic Sciences
	Office of the Attorney General

Persons wishing to testify about the performance of any of the foregoing agencies may contact Tawanna Shuford, Committee on the Judiciary and Public Safety at 724-8191 or e-mail: tshuford@dccouncil.us.

COMMITTEE ON FINANCE AND REVENUE

Chairperson Jack Evans

THURSDAY, FEBRUARY 28, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
9:00 a.m. - End	Washington Convention and Sports Authority/Events DC
	Destination DC
	Commission on Arts & Humanities

Persons wishing to testify about the performance of any of the foregoing agencies may contact Sarina Loy, Committee on Finance and Revenue at 724-8058 or e-mail: sloy@dccouncil.us.

COMMITTEE ON GOVERNMENT OPERATIONS

Chairperson Kenyan McDuffie

THURSDAY, FEBRUARY 28, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	Department of General Services
	Office of Partnerships and Grants Services
	Office of People's Counsel
	Public Service Commission

Persons wishing to testify about the performance of any of the foregoing agencies may contact Ronan Gulstone, Committee on Government Operations at 724-4902 or email: rgulstone@dccouncil.us.

COMMITTEE ON ECONOMIC DEVELOPMENT

Chairperson Muriel Bowser

FRIDAY, MARCH 1, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	Office of the Deputy Mayor for Planning and Economic Dev.
	District of Columbia Housing Authority

Persons wishing to testify about the performance of any of the foregoing agencies may contact Rob Hawkins, Committee on Economic Development at 724-8198 or e-mail: rhawkins@dccouncil.us.

COMMITTEE ON EDUCATION

Chairperson David Catania

FRIDAY, MARCH 1, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	District of Columbia Public Schools (Government Witnesses)

Persons wishing to testify about the performance of any of the foregoing agencies may contact Brendan Williams-Kief, Committee on Education at 724-8061 or email: bwilliamskief@dccouncil.us.

COMMITTEE ON WORKFORCE & COMMUNITY AFFAIRS

Chairperson Marion Barry

MONDAY, MARCH 4, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	Workforce Investment Council
	Department of Employment Services

Persons wishing to testify about the performance of any of the foregoing agencies may contact Garret King, Committee on Workforce and Community Affairs at 741-0948 or email: gking@dccouncil.us.

COMMITTEE ON HUMAN SERVICES

Chairperson Jim Graham

MONDAY, MARCH 4, 2013; ROOM 412	
Time	Agency
10:00 a.m. - 3:00 p.m.	Children and Youth Investment Trust Corporation
3:00 p.m. - End	Department of Youth Rehabilitation Services

Persons wishing to testify about the performance of any of the foregoing agencies may contact Malcolm Cameron, Committee on Human Services, at 724-8191 or e-mail: mcameron@dccouncil.us.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

Chairperson Tommy Wells

MONDAY, MARCH 4, 2013; ROOM 123	
Time	Agency
2:00 p.m. - End	Office of the Chief Medical Examiner

Persons wishing to testify about the performance of any of the foregoing agencies may contact Tawanna Shuford, Committee on the Judiciary and Public Safety at 724-8191 or e-mail: tshuford@dccouncil.us.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT Chairperson **Mary Cheh**

MONDAY, MARCH 4, 2013; ROOM 120	
Time	Agency
11:00 a.m. - End	Pedestrian Advisory Council
	Bicycle Advisory Council
	District Department of Transportation

Persons wishing to testify about the performance of any of the foregoing agencies may contact Ms. Aukima Benjamin, Committee on Transportation and the Environment at 724-8062 or e-mail: abenjamin@dccouncil.us.

COMMITTEE OF THE WHOLE Chairman **Phil Mendelson**

WEDNESDAY, MARCH 6, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	Office of Zoning
	Office of Planning

Persons wishing to testify about the performance of any of the foregoing agencies may contact Jessica Jacobs, Committee of the Whole at 724-8038 or e-mail: jjacobs@dccouncil.us. **If DC Government has a DELAYED opening on Wednesday, March 6, 2013 due to snow, the hearing will commence after the delay. If DC Government is CLOSED on Wednesday, March 6, 2013 due to snow, agency performance hearings will be rescheduled to Thursday, March 7, 2013 @ 10:30 a.m in Room 412.**

COMMITTEE ON EDUCATION Chairman **David Catania**

WEDNESDAY, MARCH 6, 2013; ROOM 123	
Time	Agency
10:00 a.m. - End	Office of the State Superintendent of Education
	State Board of Education
	Bullying Prevention Task Force
	Health Youth and Schools Commission

Persons wishing to testify about the performance of any of the foregoing agencies may contact Brendan Williams-Kief, Committee on Education at 724-8061 or email: bwilliamskief@dccouncil.us.

COMMITTEE ON FINANCE & REVENUE Chairperson **Jack Evans**

THURSDAY, MARCH 7, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	Office of the Chief Financial Officer
	Office of Finance & Treasury
	Office of Financial Management & Operations
	Office of Tax and Revenue
	District of Columbia Lottery & Charitable Games Control Board
	Real Property Tax Appeals Commission for the District of Columbia

Persons wishing to testify about the performance of any of the foregoing agencies may contact Sarina Loy, Committee of Finance and Revenue at 724-8058 or e-mail: sloy@dccouncil.us.

COMMITTEE ON HUMAN SERVICES

Chairperson Jim Graham

THURSDAY, MARCH 7, 2012; ROOM 123	
Time	Agency
11:00 a.m. - End	Office of Disability Rights
	Department on Disability Services

Persons wishing to testify about the performance of any of the foregoing agencies may contact Malcolm Cameron, Committee on Human Services at 724-8191 or e-mail: mcameron@dccouncil.us.

COMMITTEE ON HEALTH

Chairperson Yvette Alexander

FRIDAY, MARCH 8, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	Department of Health Care Finance

Persons wishing to testify about the performance of any of the foregoing agencies may contact Rayna Smith, Committee on Health at 741-2111 or e-mail: rsmith@dccouncil.us.

COMMITTEE ON GOVERNMENT OPERATIONS

Chairperson Kenyan McDuffie

MONDAY, MARCH 11, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:00 a.m. - End	Executive Office of the Mayor
	Office of Policy and Legislative Affairs
	Serve DC
	Office of Community Affairs
	Office of the City Administrator
	Office of the Chief Technology Officer
	Secretary of the District of Columbia
Notaries Public Board of Review	

Persons wishing to testify about the performance of any of the foregoing agencies may contact Ronan Gulstone, Committee on Government Operations at 724-4902 or email: rgulstone@dccouncil.us.

COMMITTEE ON WORKFORCE & COMMUNITY AFFAIRS

Chairperson Marion Barry

MONDAY, MARCH 11, 2013; ROOM 120	
Time	Agency
11:00 a.m. - End	Workforce Investment Council (Continuation)
	Department of Employment Services (Continuation)

Persons wishing to testify about the performance of any of the foregoing agencies may contact Garret King, Committee on Workforce and Community Affairs at 741-0948 or email: gking@dccouncil.us.

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

TUESDAY, MARCH 12, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
11:00 a.m. - End	District of Columbia Retirement Board
	University of the District of Columbia
	Community College of the District of Columbia

Persons wishing to testify about the performance of any of the foregoing agencies may contact Renee Johnson, Committee of the Whole at 724-8092 or e-mail: rjohnson@dccouncil.us.

COMMITTEE ON HEALTH

Chairperson Yvette Alexander

TUESDAY, MARCH 12, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	Department of Mental Health
	Office of The Deputy Mayor for Health and Human Services

Persons wishing to testify about the performance of any of the foregoing agencies may contact Rayna Smith, Committee on Health at 741-2111 or e-mail: rsmith@dccouncil.us.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT Chairperson Mary Cheh

TUESDAY, MARCH 12, 2013; ROOM 120	
Time	Agency
11:00 a.m. - End	Department of Motor Vehicles
	Department of Public Works

Persons wishing to testify about the performance of any of the foregoing agencies may contact Ms. Aukima Benjamin, Committee on Transportation and the Environment at 724-8062 or e-mail abenjamin@dccouncil.us.

COMMITTEE ON HUMAN SERVICES Chairperson Jim Graham

WEDNESDAY, MARCH 13, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
11:00 a.m. - End	Department of Human Services

Persons wishing to testify about the performance of any of the foregoing agencies may contact Malcolm Cameron, Committee on Human Services at 724-8191 or e-mail: mcameron@dccouncil.us.

COMMITTEE OF THE WHOLE Chairman Phil Mendelson

THURSDAY, MARCH 14, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
10:30 a.m. - 2:00 p.m.	Metropolitan Washington Council of Governments
	District of Columbia Auditor
	Office of Labor Relations and Collective Bargaining
	Office of Budget and Planning
	Metropolitan Washington Airports Authority

Persons wishing to testify about the performance of any of the foregoing agencies may contact Renee Johnson, Committee of the Whole at 724-8092 or e-mail: rjohnson@dccouncil.us.

COMMITTEE ON EDUCATION Chairperson David Catania

THURSDAY, MARCH 14, 2013; ROOM 412	
Time	Agency
10:00 a.m. - End	District of Columbia Public Charter School Board

Persons wishing to testify about the performance of any of the foregoing agencies may contact Brendan Williams-Kief, Committee on Education at 724-8061 or email: bwiliamskief@dccouncil.us.

COMMITTEE ON HEALTH Chairperson Yvette Alexander

THURSDAY, MARCH 14, 2013; ROOM 123	
Time	Agency
10:00 a.m. - End	Board of Allied Health
	Board of Audiology and Speech-Language Pathology
	Board of Behavioral Health
	Board of Chiropractic
	Board of Dentistry
	Board of Dietetics and Nutrition
	Board of Marriage and Family Therapy
	Board of Massage
	Board of Medicine
	Board of Nursing
	Board of Nursing Home Administration
	Board of Occupational Therapy
	Board of Optometry
	Board of Pharmacy
	Board of Physical Therapy
	Board of Podiatry
	Board of Professional Counseling
Board of Psychology	
Board of Respiratory Care	
Board of Veterinary Examiner	
Not-For-Profit Hospital Corporation	
Department of Health and Boards	

Persons wishing to testify about the performance of any of the foregoing agencies may contact Rayna Smith, Committee on Health at 741-2111 or e-mail: rsmith@dccouncil.us.

COMMITTEE OF THE WHOLE

Chairman Phil Mendelson

FRIDAY, MARCH 15, 2013; COUNCIL CHAMBER (ROOM 500)	
Time	Agency
Noon - End	Contract Appeals Board Office of Contracting & Procurement

Persons wishing to testify about the performance of any of the foregoing agencies may contact Jessica Jacob, Committee of the Whole at 724-8038 or e-mail: jjacobs@dccouncil.us.

COMMITTEE ON ECONOMIC DEVELOPMENT

Chairperson Muriel Bowser

FRIDAY, MARCH 15, 2013; ROOM 120	
Time	Agency
1:00 p.m - End	Washington Area Metropolitan Transit Authority

Persons wishing to testify about the performance of any of the foregoing agencies may contact Rob Hawkins, Committee on Economic Development at 724-8198 or e-mail: rhawkins@dccouncil.us.

COMMITTEE ON HEALTH

Chairperson Yvette Alexander

MONDAY, MARCH 18, 2013; ROOM 412	
Time	Agency
11:00 a.m. - End	Department of Health

Persons wishing to testify about the performance of any of the foregoing agencies may contact Rayna Smith, Committee on Health at 741-2111 or e-mail: rsmith@dccouncil.us.

Addendum of Changes to Schedule:

<u>New Date</u>	<u>Original Date</u>	<u>Hearing</u>
2/14/2013	2/12/2013	Committee on Workforce and Community Affairs
3/4/2013	2/27/2013	Committee on the Judiciary and Public Safety (Office of the Chief Medical Examiner)
3/15/2013	3/1/2013	Committee on Economic Development (WMATA)
3/11/2013	3/4/2013	Committee on Workforce and Community Affairs Oversight Continuation (WIC and DOES)
3/18/2013	3/6/2013	Committee of Health

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY
NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE
1350 Pennsylvania Avenue, NW, Washington, DC 20004**

**COUNCILMEMBER TOMMY WELLS, CHAIRPERSON
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY
ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE**

on

THE CAPACITY AT FEMS FOR TIMELY AMBULANCE RESPONSE

**Thursday, March 28, 2013
11:30 a.m., Room 120, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004**

Councilmember Tommy Wells, Chairperson of the Committee on the Judiciary and Public Safety, announces the scheduling of a public oversight roundtable on the capacity of the Fire and Emergency Medical Services Department (FEMS) to provide timely ambulance response to emergency calls. The roundtable will be held at 11:30 a.m. on Thursday, March 28, 2013 in Room 120 of the John A. Wilson Building.

The purpose of this oversight roundtable is to receive testimony on the capacity of FEMS to provide timely ambulance response to emergency calls. The roundtable will discuss recent events where FEMS could not provide an ambulance or medical transport when needed, and the current staffing and apparatus capacity of FEMS in this area.

Those who wish to testify should contact Ms. Tawanna Shuford at (202) 724-7808 or via e-mail at tshuford@dccouncil.us, and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Tuesday, March 26, 2013. Persons wishing to testify are asked to submit 15 copies of written testimony. Witnesses should limit their testimony to three minutes.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to Ms. Shuford. The record will close at 5:00 p.m. on Thursday, April 11, 2013.

**Council of the District of Columbia
Committee on Health
Notice of Public Oversight Roundtable
1350 Pennsylvania Ave., N.W., Washington, D.C. 20004**

**COUNCILMEMBER YVETTE M. ALEXANDER, CHAIRPERSON
COMMITTEE ON HEALTH ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE**

on

The District of Columbia Health Benefit Exchange Authority

**Thursday, March 28, 2013
1:00 p.m., Room 123, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

Councilmember Yvette M. Alexander, Chairperson of the Committee on Health, announces a public oversight roundtable on the implementation of the District of Columbia Health Benefit Exchange. The roundtable will be held at 1:00 p.m. on Thursday, March 28, 2013 in Room 123 of the John A. Wilson Building.

The purpose of this public oversight roundtable is to provide the public with an opportunity to comment on the District's Health Benefit Exchange Authority and its continuing efforts to implement the Affordable Care Act.

Those who wish to testify should contact Melanie Williamson, Legislative Counsel, at (202) 741-2112 or via e-mail at mwilliamson@dccouncil.us and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business on Wednesday, March 26, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Wednesday, March 26, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to four minutes; less time will be allowed if there are a large number of witnesses.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted either to Ms. Williamson, or to Ms. Nyasha Smith, Secretary to the Council, Room 5 of the Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004. The record will close at 5:00 p.m. on April 11, 2013.

**Council of the District of Columbia
Committee on Finance and Revenue
Notice of Public Roundtable**

John A. Wilson Building, 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004

**COUNCILMEMBER JACK EVANS, CHAIR
COMMITTEE ON FINANCE AND REVENUE**

ANNOUNCES A PUBLIC ROUNDTABLE ON:

**PR 20-73, the “Real Property Tax Appeals Commission Alvin L. Jackson Confirmation
Resolution of 2013”**

Wednesday, March 20, 2013

10:00 a.m.

Room 120 - John A. Wilson Building

1350 Pennsylvania Avenue, NW; Washington, D.C. 20004

Councilmember Jack Evans, Chairman of the Committee on Finance and Revenue, announces a public roundtable to be held on Wednesday, March 20, 2013 at 10:00 a.m., in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

PR 20-73, the “Real Property Tax Appeals Commission Alvin L. Jackson Confirmation Resolution of 2013” would confirm Mr. Alvin L. Jackson as a part-time member of the Real Property Tax Appeals Commission, for a term to end April 30, 2016.

The Committee invites the public to testify at the roundtable. Those who wish to testify should contact Sarina Loy, Committee Aide at (202) 724-8058 or sloy@dccouncil.us, and provide your name, organizational affiliation (if any), and title with the organization by 10:00 a.m. on Tuesday, March 19, 2013. Witnesses should bring 15 copies of their written testimony to the hearing. The Committee allows individuals 3 minutes to provide oral testimony in order to permit each witness an opportunity to be heard. Additional written statements are encouraged and will be made part of the official record. Written statements may be submitted by e-mail to sloy@dccouncil.us or mailed to: Council of the District of Columbia; 1350 Pennsylvania Ave., N.W.; Suite 114; Washington D.C. 20004.

Council of the District of Columbia
Committee on Economic Development
Notice of Public Roundtable
1350 Pennsylvania Avenue, N.W. Washington, DC 20004

**COUNCILMEMBER MURIEL BOWSER, CHAIRPERSON
COMMITTEE ON ECONOMIC DEVELOPMENT**

ANNOUNCES A PUBLIC ROUNDTABLE

ON

**PROPOSED RESOLUTION 20-85, THE "JUSTICE PARK PROPERTY DISPOSITION EXTENSION
APPROVAL RESOLUTION OF 2013"**

MARCH 27, 2013

10:00 AM

ROOM 120

JOHN A. WILSON BUILDING

1350 PENNSYLVANIA AVENUE, N.W.

On March 27, 2013, Councilmember Muriel Bowser, Chairperson of the Committee on Economic Development, will hold a public roundtable on Proposed Resolution 20-85, the "Justice Park Property Disposition Extension Approval Resolution of 2013."

PR 20-85, if approved, would extend the disposition of certain District owned real property located at 1421 Euclid Street, NW, and known as Justice Park. First approved for disposition on April 5, 2011, the developer and DMPED anticipated that the project predevelopment phase would be completed within the statutorily allotted two year period. Prior, and subsequent to Council approval of the disposition on April 5, 2011, the Developer had been diligently seeking financing for the project. On September 1, 2012, the Developer was selected for further consideration of 9% Low Income Housing Tax Credits by the DC Department of Housing and Community Development. Upon receipt of the conditional funding commitment, the Developer completed construction documents and now awaits the approval of building permits. In addition, the Developer has submitted, and is also awaiting approval of the District's Environmental Impact Screening Form. The approvals are expected in the coming months after which the Developer is prepared to break ground.

The public roundtable will begin at 10:00 AM in Room 120 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W.

Individuals and representatives of organizations wishing to testify should contact Rob Hawkins, Legislative Director to the Committee on Economic Development, at (202) 724-8052,

or rhawkins@dccouncil.us and furnish their name, address, telephone number, and organizational affiliation, if any, by the close of business Tuesday, March 26, 2013. Please DO NOT register to testify on-line. Persons presenting testimony may be limited to 3 minutes in order to permit each witness an opportunity to be heard.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee on Economic Development, Council of the District of Columbia, Suite 112 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

COUNCIL OF THE DISTRICT OF COLUMBIA
EXCEPTED SERVICE APPOINTMENTS AS OF FEBRUARY 28, 2013

NOTICE OF EXCEPTED SERVICE EMPLOYEES

D.C. Code § 1-609.03(c) requires that a list of all new appointees to Excepted Service positions established under the provisions of § 1-609.03(a) be published in the D.C. Register. In accordance with the foregoing, the following information is hereby published for the following positions.

COUNCIL OF THE DISTRICT OF COLUMBIA			
NAME	POSITION TITLE	GRADE	TYPE OF APPOINTMENT
Akins, Lamont	Constituent Services Director	4	Excepted Service - Reg Appt
Bates, Melanie	Legislative Counsel	6	Excepted Service - Reg Appt
Irvin, Jillian	Legislative Counsel	6	Excepted Service - Reg Appt
Rentz, Amanda	Legislative Aide	4	Excepted Service - Reg Appt
Geraldo, Manuel	Communications Director	6	Excepted Service - Reg Appt
Tate, Takiyah	Constituent Services Specialist	3	Excepted Service - Reg Appt
Lindsay, Charles	Special Assistant	7	Excepted Service - Reg Appt
Sadler, Carol	Special Assistant	3	Excepted Service - Reg Appt
Martschink, Gustave	Information Technology Specialist	6	Excepted Service - Reg Appt
Keerikatte, Nishant	Legislative Counsel	6	Excepted Service - Reg Appt

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, MARCH 20, 2013
2000 14TH STREET, N.W., SUITE 400S,
WASHINGTON, D.C. 20009

Ruthanne Miller, Chairperson

Members:

Nick Alberti, Donald Brooks, Herman Jones, Mike Silverstein

- Protest Hearing (Status)** **9:30 AM**
Case # 13-PRO-00002; 2408 Wisconsin Ave, LLC, t/a Mason Inn
2408 Wisconsin Ave NW, License #79644, Retailer CT, ANC 3B
Substantial Change (Summer Garden)
- Protest Hearing (Status)** **9:30 AM**
Case # 13-PRO-00006; Al's Market, LLC, t/a Street, 1346 T Street NW,
License #91140, Retailer CT, ANC 1B
New Application
- Show Cause Hearing (Status)** **9:30 AM**
Case # 12-251-00104; Island Café, Inc., t/a Island Café;829 Upshur Street NW
License #60578, Retailer CT, ANC 46
Failed to Comply With the Terms of the Offer in Compromise, dated July 18, 2012.
- Show Cause Hearing (Status)** **9:30 AM**
Case # 12-AUD-00006; Esteban Ramirez & Francisco Nunez, t/a Carolina
Palace, 3700 14th Street NW, License #21055, Retailer CR, ANC 4C
Failed to File Quarterly Statements (3rd Quarter 2011)
- Show Cause Hearing (Status)** **9:30 AM**
Case # 11-251-00188, # 11-251-00212, # 11-251-00366 and # 11-251-00366(a)
Shamiana, LLC, t/a Heritage India Brassiere & Lounge; 1337 Connecticut Ave
NW, License #75074, Retailer CR, ANC 2B
Failed to Comply With the Terms of Board Order No. 2012-309
- Show Cause Hearing (Status)** **9:30 AM**
Case # 12-CMP-00021; Cesar Guzman t/a Casa Blanca Restaurant, 1014
Vermont Ave NW, License #20067, Retailer CR, ANC 2F
Failed to Comply With the Terms of Board Order No. 2012-350

Show Cause Hearing (Status) **9:30 AM**
Case # 12-AUD-00032; S & W D.C., LLC, t/a Smith & Wollensky, 1112 19th Street NW, License #60001, Retailer CR, ANC 2B
Failed to File Quarterly Statements (1st Quarter 2012)

Show Cause Hearing (Status) **9:30 AM**
Case # 12-CMP-00506; R-S, Inc., t/a Souk Restaurant, 1208 H Street NE License #88675, Retailer CR, ANC 6A
No ABC Manager on Duty

Show Cause Hearing (Status) **9:30 AM**
Case # 12-AUD-00048; Himalayan Heritage, Inc., t/a Himalayan Heritage 2305 18th Street NW, License #79577, Retailer CR, ANC 1C
Failed to File Quarterly Statements (2nd Quarter 2012)

Show Cause Hearing (Status) **9:30 AM**
Case # 12-CMP-00443; AVC Solutions Corp, t/a Baja Fresh, 1333 New Hampshire Ave NW, License #83801, Retailer DR, ANC 2B
Failed to File Quarterly Statements (1st Quarter 2012)

Show Cause Hearing (Status) **9:30 AM**
Case # 12-AUD-00049; Panda Bear, LLC, t/a Hot N Juicy Crawfish 2651 Connecticut Ave NW, License #86226, Retailer CR, ANC 3C
Failed to File Quarterly Statements (2nd Quarter 2012)

Show Cause Hearing (Status) **9:30 AM**
Case # 12-AUD-00010; HML Rose, Inc., t/a Lindy's Bon Appetit 2040 I Street NW, License #23533, Retailer CR, ANC 2A
Failed to Comply With the Terms of the Offer in Compromise, dated August 1, 2012

Show Cause Hearing **10:00 AM**
Case # 12-CMP-00155, # 12-CMP-00155(a), # 12-CMP-00155(b)
1900 M Street Restaurant Associates, LLC, t/a Rumors Restaurant; 1900 M, Street NW, License #71717, Retailer CN, ANC
Substantial Change in Operation Without Board Approval

Show Cause Hearing **11:00 AM**
Case # 12-251-00196; Superclub Ibiza, LLC, t/a Ibiza, 1222 1st Street NE License #74456, Retailer CN, ANC 6C
Failed to Comply With the Terms of Board Order No. 2008-316

BOARD RECESS AT 12:00 PM
ADMINISTRATIVE AGENDA
1:00 PM

Protest Hearing

1:30 PM

Case # 12-PRO-00087; Quang V. Le t/a Le Liquors, 1776 Columbia Road NW
License #90659, Retailer A, ANC 1C

New Application

Protest Hearing

1:30 PM

Case # 12-PRO-00086

Neighborhood Restaurant Group XVII, LLC, GBD Fried Chicken &
Doughnuts, 1323 Connecticut Ave NW, License #90634, Retailer CR, ANC 2B

New Application

RESCIND

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: February 22, 2013
 Petition Date: April 8, 2013
 Roll Call Hearing Date: April 22, 2013
 Protest Hearing Date: June 12, 2013

License No.: ABRA-91434
 Licensee: Black Whiskey LLC
 Trade Name: Black Whiskey
 License Class: Retailer’s Class “C” Tavern
 Address: 1410 14th Street, NW
 Contact: Andrew Kline, 202-686-7600

WARD 2 ANC 2F SMD 2F02

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 4:30pm on June 12, 2013.

NATURE OF OPERATION

New Full Service Restaurant serving American cuisine with occasional DJ and Dancing. Number of Seats and total occupancy load equals 99.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE AND CONSUMPTION FOR INSIDE PREMISES AND SUMMER GARDEN

Sunday 11:30am –1am, Monday through Thursday 11:30am-2am and Friday & Saturday 11:30am-3am

HOURS OF ENTERTAINMENT FOR INSIDE PREMISES AND SUMMER GARDEN

Sunday 6pm-1am, Monday through Thursday 6pm-2am and Friday & Saturday 6pm-3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC NOTICE

Persons objecting to the approval of a renewal application are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, NW, 4th Floor, Washington, DC 20009.

RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-025268
License Class/Type: C Restaurant
ANC: 2E

Applicant: Cady's Alley Restaurant Concepts, LLC
Trade Name: Leopold's Kafe Konditorei/L2
Premise Address: 3315 Cady's Alley AL NW

Endorsements: Cover Charge, Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	7 am - 2 am	10 am -1:30 am	7 am - 2 am	7 am - 2 am	6 pm - 2 am
MON:	7 am - 2 am	8 am - 1:30 am	7 am - 2 am	7 am - 2 am	6 pm - 2 am
TUE:	7 am - 2 am	8 am - 1:30 am	7 am - 2 am	7 am - 2 am	6 pm - 2 am
WED:	7 am - 2 am	8 am - 1:30 am	7 am - 2 am	7 am - 2 am	6 pm - 2 am
THU:	7 am - 2 am	8 am - 1:30 am	7 am - 2 am	7 am - 2 am	6 pm - 2 am
FRI:	7 am - 3 am	8 am - 2:30 am	7 am - 2 am	7 am - 2 am	6 pm - 3 am
SAT:	7 am - 3 am	8 am - 2:30 am	7 am - 2 am	7 am - 2 am	6 pm - 3 am

License Number: ABRA-072469
License Class/Type: C Restaurant
ANC: 1B

Applicant: Zewdie, Inc.
Trade Name: Dukem Ethio Market & Restaurant
Premise Address: 1114 - 1118 U ST NW

Endorsements: Cover Charge, Dancing, Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	9:30 am - 2 am	10 am -2 am	10 am - 2 am	10 am - 2 am	10 am - 2 am
MON:	9:30 am - 2 am	9:30 am - 2 am	9:30 am - 2 am	9:30 am - 2 am	10 am - 2 am
TUE:	9:30 am - 2 am	9:30 am - 2 am	9:30 am - 2 am	9:30 am - 2 am	10 am - 2 am
WED:	9:30 am - 2 am	9:30 am - 2 am	9:30 am - 2 am	9:30 am - 2 am	10 am - 2 am
THU:	9:30 am - 2 am	9:30 am - 2 am	9:30 am - 2 am	9:30 am - 2 am	10 am - 2 am
FRI:	9:30 am - 3 am	9:30 am - 3 am	9:30 am - 3 am	9:30 am - 3 am	10 am - 3 am
SAT:	9:30 am - 3 am	9:30 am - 3 am	9:30 am - 3 am	9:30 am - 3 am	10 am - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC NOTICE

Persons objecting to the approval of a renewal application are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, NW, 4th Floor, Washington, DC 20009.

RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-023471
License Class/Type: C Restaurant
ANC: 2E

Applicant: Wing Fu, Corp.
Trade Name: Harmony Cafe
Premise Address: 3287 M ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11:30 am - 11 pm	11:30 am -11 pm	-
MON:	11:30 am - 11 pm	11:30 am - 11 pm	-
TUE:	11:30 am - 11 pm	11:30 am - 11 pm	-
WED:	11:30 am - 11 pm	11:30 am - 11 pm	-
THU:	11:30 am - 11 pm	11:30 am - 11 pm	-
FRI:	11:30 am - 11 pm	11:30 am - 11 pm	-
SAT:	11:30 am - 11 pm	11:30 am - 11 pm	-

License Number: ABRA-027564
License Class/Type: C Restaurant
ANC: 2B

Applicant: Bertucci's Restaurant Corporation
Trade Name: Bertucci's Brick Oven Pizzeria
Premise Address: 1218 - 1220 CONNECTICUT AVE NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 11 pm	11 am -11 pm	-
MON:	11 am - 11 pm	11 am - 11 pm	-
TUE:	11 am - 11 pm	11 am - 11 pm	-
WED:	11 am - 11 pm	11 am - 11 pm	-
THU:	11 am - 11 pm	11 am - 11 pm	-
FRI:	11 am - 12 am	11 am - 12 am	-
SAT:	11 am - 12 am	11 am - 12 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC NOTICE

Persons objecting to the approval of a renewal application are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, NW, 4th Floor, Washington, DC 20009.

RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-060080

Applicant: Haile G. Binosai

License Class/Type: C Restaurant

Trade Name: Selam Restaurant

ANC: 2B

Premise Address: 1524 - 1526 U ST NW

Endorsements: Cover Charge, Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	9 am - 2 am	11 am - 2 am	9 pm - 1 am
MON:	9 am - 2 am	11 am - 2 am	9 pm - 1 am
TUE:	9 am - 2 am	11 am - 2 am	9 pm - 1 am
WED:	9 am - 2 am	11 am - 2 am	9 pm - 1 am
THU:	9 am - 2 am	11 am - 2 am	9 pm - 1 am
FRI:	9 am - 3 am	11 am - 3 am	9 pm - 2 am
SAT:	9 am - 3 am	11 am - 3 am	9 pm - 2 am

License Number: ABRA-020060

Applicant: Bertucci's Restaurant Corporation

License Class/Type: C Restaurant

Trade Name: Bertucci's Brick Oven Pizzeria

ANC: 2A

Premise Address: 2000 PENNSYLVANIA AVE NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 12 am	11 am - 12 am	-
MON:	11 am - 12 am	11 am - 12 am	-
TUE:	11 am - 12 am	11 am - 12 am	-
WED:	11 am - 12 am	11 am - 12 am	-
THU:	11 am - 12 am	11 am - 12 am	-
FRI:	11 am - 12 am	11 am - 12 am	-
SAT:	11 am - 12 am	11 am - 12 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC NOTICE

Persons objecting to the approval of a renewal application are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, NW, 4th Floor, Washington, DC 20009.

RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-014818
License Class/Type: C Restaurant
ANC: 2B

Applicant: Louyans, Inc.
Trade Name: City Lights of China
Premise Address: 1729 - 1731 Connecticut AVE NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 11 pm	11 am -11 pm	-
MON:	11 am - 11 pm	11 am - 11 pm	-
TUE:	11 am - 11 pm	11 am - 11 pm	-
WED:	11 am - 11 pm	11 am - 11 pm	-
THU:	11 am - 11 pm	11 am - 11 pm	-
FRI:	11 am - 11 pm	11 am - 11 pm	-
SAT:	11 am - 11 pm	11 am - 11 pm	-

License Number: ABRA-081907
License Class/Type: C Restaurant
ANC: 2B

Applicant: Bionda, LLC
Trade Name: Trattu
Premise Address: 1823 JEFFERSON PL NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11: 30 am - 12 am	11: 30 am -12 am	-
MON:	11: 30 am - 2 am	11: 30 am - 2 am	-
TUE:	11: 30 am - 2 am	11: 30 am - 2 am	-
WED:	11: 30 am - 2 am	11: 30 am - 2 am	-
THU:	11: 30 am - 2 am	11: 30 am - 2 am	-
FRI:	11: 30 am - 3 am	11: 30 am - 3 am	-
SAT:	11: 30 am - 3 am	11: 30 am - 3 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC NOTICE

Persons objecting to the approval of a renewal application are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, NW, 4th Floor, Washington, DC 20009.

RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-081997
License Class/Type: C Restaurant
ANC: 1C

Applicant: Adams Morgan F&B, LLC
Trade Name: Jack Rose
Premise Address: 2007 18TH ST NW

Endorsements: Cover Charge, Dancing, Entertainment, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	7 am - 2 am	10 am - 2 am	7 am - 7 am	10 am - 2 am	7 am - 2 am
MON:	7 am - 2 am	8 am - 2 am	7 am - 7 am	8 am - 2 am	7 am - 2 am
TUE:	7 am - 2 am	8 am - 2 am	7 am - 7 am	8 am - 2 am	7 am - 2 am
WED:	7 am - 2 am	8 am - 2 am	7 am - 7 am	8 am - 2 am	7 am - 2 am
THU:	7 am - 2 am	8 am - 2 am	7 am - 7 am	8 am - 2 am	7 am - 2 am
FRI:	7 am - 3 am	8 am - 3 am	7 am - 7 am	8 am - 3 am	7 am - 3 am
SAT:	7 am - 3 am	8 am - 3 am	7 am - 7 am	8 am - 3 am	7 am - 3 am

License Number: ABRA-082062
License Class/Type: C Restaurant
ANC: 6B

Applicant: Kookoovaya, Inc
Trade Name: We, The Pizza
Premise Address: 305 PENNSYLVANIA AVE SE

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 5 pm	11 am - 5 pm	11 am - 5 pm	11 am - 5 pm	-
MON:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
TUE:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
WED:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
THU:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
FRI:	11 am - 3 am	11 am - 3 am	11 am - 2 am	11 am - 2 am	-
SAT:	11 am - 3 am	11 am - 3 am	11 am - 2 am	11 am - 2 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC NOTICE

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-082174
License Class/Type: C Restaurant
ANC: 2B

Applicant: Zodiac Restaurant Group, Inc.
Trade Name: Scion Restaurant
Premise Address: 2100 P ST NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	10 am - 2 am	10 am - 2 am	11 am - 12 am	11 am - 12 am	-
MON:	11 am - 2 am	11 am - 2 am	11 am - 12 am	11 am - 12 am	-
TUE:	11 am - 2 am	11 am - 2 am	11 am - 12 am	11 am - 12 am	-
WED:	11 am - 2 am	11 am - 2 am	11 am - 12 am	11 am - 12 am	-
THU:	11 am - 2 am	11 am - 2 am	11 am - 12 am	11 am - 12 am	-
FRI:	11 am - 2 am	11 am - 2 am	11 am - 12 am	11 am - 12 am	-
SAT:	10 am - 2 am	10 am - 2 am	11 am - 12 am	11 am - 12 am	-

License Number: ABRA-082192
License Class/Type: C Restaurant
ANC: 1B

Applicant: Moka, LLC
Trade Name: Portico
Premise Address: 1914 9TH ST NW

Endorsements: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	12 pm - 2 am	12 pm - 2 am	-
MON:	12 pm - 2 am	12 pm - 2 am	-
TUE:	12 pm - 2 am	12 pm - 2 am	-
WED:	12 pm - 2 am	12 pm - 2 am	-
THU:	12 pm - 2 am	12 pm - 2 am	8 pm - 2 am
FRI:	12 pm - 3 am	12 pm - 3 am	8 pm - 2 am
SAT:	12 pm - 3 am	12 pm - 3 am	8 pm - 2 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-082445
License Class/Type: C Restaurant
ANC: 1A

Applicant: Scorsat Food Service LLC
Trade Name: Thaitanic II
Premise Address: 3460 14TH ST NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 11 pm	11 am -11 pm	11 am - 11 pm	11 am - 11 pm	-
MON:	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	-
TUE:	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	-
WED:	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	-
THU:	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	-
FRI:	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	-
SAT:	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	-

License Number: ABRA-082921
License Class/Type: C Restaurant
ANC: 1C

Applicant: Musings Corporation
Trade Name: Muzette
Premise Address: 2305 18TH ST NW 1

Endorsements: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 2 am	11 am -2 am	11 am - 2 am
MON:	11 am - 2 am	11 am - 2 am	11 am - 2 am
TUE:	11 am - 2 am	11 am - 2 am	11 am - 2 am
WED:	11 am - 2 am	11 am - 2 am	11 am - 2 am
THU:	11 am - 2 am	11 am - 2 am	11 am - 2 am
FRI:	11 am - 3 am	11 am - 3 am	11 am - 3 am
SAT:	11 am - 3 am	11 am - 3 am	11 am - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

**POSTING DATE: 3/15/2013
 PETITION DATE: 4/29/2013
 HEARING DATE: 5/13/2013**

**License Number: ABRA-082973
 License Class/Type: C Restaurant
 ANC: 3E**

**Applicant: Rudraaksh, LLC
 Trade Name: Masala Art
 Premise Address: 4441 A WISCONSIN AVE NW**

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 11 pm	11 am - 11 pm	-
MON:	11 am - 11 pm	11 am - 11 pm	-
TUE:	11 am - 11 pm	11 am - 11 pm	-
WED:	11 am - 11 pm	11 am - 11 pm	-
THU:	11 am - 11 pm	11 am - 11 pm	-
FRI:	11 am - 11 pm	11 am - 11 pm	-
SAT:	11 am - 11 pm	11 am - 11 pm	-

**License Number: ABRA-083047
 License Class/Type: C Restaurant
 ANC: 2C**

**Applicant: Carmine's DC, LLC
 Trade Name: Carmine's
 Premise Address: 425 7th ST NW**

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	7 am - 2 am	10 am - 2 am	11 am - 11:30 pm	11 am - 11:30 pm	-
MON:	7 am - 2 am	8 am - 2 am	11 am - 11:30 pm	11 am - 11:30 pm	-
TUE:	7 am - 2 am	8 am - 2 am	11 am - 11:30 pm	11 am - 11:30 pm	-
WED:	7 am - 2 am	8 am - 2 am	11 am - 11:30 pm	11 am - 11:30 pm	-
THU:	7 am - 2 am	8 am - 2 am	11 am - 11:30 pm	11 am - 11:30 pm	-
FRI:	7 am - 2 am	8 am - 2 am	11 am - 12:30 am	11 am - 12:30 am	-
SAT:	7 am - 2 am	8 am - 2 am	11 am - 12:30 am	11 am - 12:30 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-083263
License Class/Type: C Restaurant
ANC: 2F

Applicant: Credo, LLC
Trade Name: Estadio
Premise Address: 1520 14TH ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 11 pm	11 am -11 pm	-
MON:	11 am - 12 am	11 am - 12 am	-
TUE:	11 am - 12 am	11 am - 12 am	-
WED:	11 am - 12 am	11 am - 12 am	-
THU:	11 am - 12:30 am	11 am - 12:30 am	-
FRI:	11 am - 1 am	11 am - 1 am	-
SAT:	11 am - 1 am	11 am - 1 am	-

License Number: ABRA-084364
License Class/Type: C Restaurant
ANC: 1A

Applicant: Alero Heights, LLC
Trade Name: Alero Restaurant & Lounge
Premise Address: 3345 14TH ST NW

Endorsements: Cover Charge, Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10 am - 2 am	10 am -2 am	7 pm - 1 am
MON:	10 am - 2 am	10 am - 2 am	7 pm - 1 am
TUE:	10 am - 2 am	10 am - 2 am	7 pm - 1 am
WED:	10 am - 2 am	10 am - 2 am	7 pm - 1 am
THU:	10 am - 2 am	10 am - 2 am	7 pm - 1 am
FRI:	10 am - 3 am	10 am - 3 am	7 pm - 2 am
SAT:	10 am - 3 am	10 am - 3 am	7 pm - 2 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-084505
License Class/Type: C Restaurant
ANC: 1C

Applicant: Tropicalia Project LLC
Trade Name: Bossa Brazilian Bistro
Premise Address: 2463 18TH ST NW

Endorsements: Cover Charge, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
MON:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
TUE:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
WED:	11 am - 2 am	11 am - 2 am	6 am - 2 am
THU:	11 am - 2 am	11 am - 2 am	6 pm - 2 am
FRI:	11 am - 3 am	11 am - 3 am	6 pm - 3 am
SAT:	11 am - 3 am	11 am - 3 am	6 pm - 3 am

License Number: ABRA-085469
License Class/Type: C Restaurant
ANC: 1B

Applicant: 2100, LLC
Trade Name: La Fonda
Premise Address: 2100 14th ST NW

Endorsements: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	7 am - 2 am	10 am - 2 am	6 pm - 2 am
MON:	7 am - 2 am	10 am - 2 am	6 pm - 2 am
TUE:	7 am - 2 am	10 am - 2 am	6 pm - 2 am
WED:	7 am - 2 am	10 am - 2 am	6 pm - 2 am
THU:	7 am - 2 am	10 am - 2 am	6 pm - 2 am
FRI:	7 am - 3 am	10 am - 3 am	6 pm - 3 am
SAT:	7 am - 3 am	10 am - 3 am	6 pm - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-085783

Applicant: Wok and Roll Enterprises, Inc.

License Class/Type: C Restaurant

Trade Name: Wok and Roll Restaurant

ANC: 1C

Premise Address: 1801 BELMONT RD NW #101

Endorsements: Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 2 am	11 am - 2 am	11 am - 11 pm	11 am - 11 pm	6 pm - 2 am
MON:	11 am - 2 am	11 am - 2 am	11 am - 11 pm	11 am - 11 pm	6 pm - 2 am
TUE:	11 am - 2 am	11 am - 2 am	11 am - 11 pm	11 am - 11 pm	6 pm - 2 am
WED:	11 am - 2 am	11 am - 2 am	11 am - 11 pm	11 am - 11 pm	6 pm - 2 am
THU:	11 am - 2 am	11 am - 2 am	11 am - 11 pm	11 am - 11 pm	6 pm - 2 am
FRI:	11 am - 3 am	11 am - 3 am	11 am - 11 pm	11 am - 11 pm	6 pm - 3 am
SAT:	11 am - 3 am	11 am - 3 am	11 am - 11 pm	11 am - 11 pm	6 pm - 3 am

License Number: ABRA-086595

Applicant: La Morenita Restaurant, LLC

License Class/Type: C Restaurant

Trade Name: La Morenita

ANC: 1A

Premise Address: 3539 Georgia AVE NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	7 am - 2 am	12 pm - 1:30 am	-
MON:	7 am - 2 am	11 am - 1:30 am	-
TUE:	7 am - 2 am	11 am - 1:30 am	-
WED:	7 am - 2 am	11 am - 1:30 am	-
THU:	7 am - 2 am	11 am - 1:30 am	-
FRI:	7 am - 3 am	11 am - 2:30 am	-
SAT:	7 am - 3 am	11 am - 2:30 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-086659
License Class/Type: C Restaurant
ANC: 1B

Applicant: Davali, LLC
Trade Name: Al Crostino
Premise Address: 1324 U ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 2 am	11 am - 2 am	-
MON:	5 pm - 2 am	5 pm - 2 am	-
TUE:	5 pm - 2 am	5 pm - 2 am	-
WED:	5 pm - 2 am	5 pm - 2 am	-
THU:	5 pm - 2 am	5 pm - 2 am	-
FRI:	5 pm - 3 am	5 pm - 3 am	-
SAT:	11 am - 3 am	11 am - 3 am	-

License Number: ABRA-086770
License Class/Type: C Restaurant
ANC: 2F

Applicant: Maddy's Tap Room LLC
Trade Name: Maddy's Tap Room
Premise Address: 1100 13th ST NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	8 am - 2 am	8 am - 2 am	11 am - 12 am	11 am - 12 am	-
MON:	8 am - 2 am	8 am - 2 am	11 am - 12 am	11 am - 12 am	-
TUE:	8 am - 2 am	8 am - 2 am	11 am - 12 am	11 am - 12 am	-
WED:	8 am - 2 am	8 am - 2 am	11 am - 12 am	11 am - 12 am	-
THU:	8 am - 2 am	8 am - 2 am	11 am - 12 am	11 am - 12 am	-
FRI:	8 am - 3 am	8 am - 3 am	11 am - 12 am	11 am - 12 am	-
SAT:	8 am - 3 am	8 am - 3 am	11 am - 12 AM	11 am - 12 AM	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-086859
License Class/Type: C Restaurant
ANC: 2F

Applicant: Clover Logan Circle, LLC
Trade Name: Tortilla Coast
Premise Address: 1454 - 1460 P ST NW

Endorsements: Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	10 am - 12 am	10 am -12 am	10 am - 10 am	10 am - 10 pm	-
MON:	11 am - 12 am	11 am - 12 am	11 am - 11 am	11 am - 10 pm	-
TUE:	11 am - 12 am	11 am - 12 am	11 am - 11 am	11 am - 10 pm	-
WED:	11 am - 12 am	11 am - 12 am	11 am - 11 am	11 am - 10 pm	-
THU:	11 am - 12 am	11 am - 12 am	11 am - 11 am	11 am - 10 pm	-
FRI:	11 am - 1 am	11 am - 1 am	11 am - 11 am	11 am - 11 pm	-
SAT:	10 am - 1 am	10 am - 1 am	10 am - 10 am	11 am - 11 pm	-

License Number: ABRA-086918
License Class/Type: C Restaurant
ANC: 2E

Applicant: Saigon Ventures LLC
Trade Name: Little Viet Garden
Premise Address: 2934 M ST NW

Endorsements: Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	12pm - 11pm	12pm -11pm	12pm - 12pm	12pm - 11pm	-
MON:	11am - 11pm	11am - 11pm	11am - 11am	11am - 11pm	-
TUE:	11am - 11pm	11am - 11pm	11am - 11am	11am - 11pm	-
WED:	11am - 11pm	11am - 11pm	11am - 11am	11am - 11pm	-
THU:	11am - 11pm	11am - 11pm	11am - 11am	11am - 11pm	-
FRI:	11am - 12am	11am - 12am	11am - 11am	11am - 12am	-
SAT:	11am - 12am	11am - 12am	11am - 11am	11am - 12am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

**POSTING DATE: 3/15/2013
 PETITION DATE: 4/29/2013
 HEARING DATE: 5/13/2013**

License Number: ABRA-087585 Applicant: Ahmed Ouihman Enterprises LLC
License Class/Type: C Restaurant Trade Name: Taan
ANC: 1C Premise Address: 1817 COLUMBIA RD NW

Endorsements: Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11am - 11pm	11am -11pm	11am - 11pm	11am - 11pm	-
MON:	11am - 12:30am	11am - 12:30am	11am - 11pm	11am - 11pm	8pm - 12am
TUE:	11am - 12:30am	11am - 12:30am	11am - 11pm	11am - 11pm	-
WED:	11am - 12:30am	11am - 12:30am	11am - 11pm	11am - 11pm	-
THU:	11am - 2am	11am - 2am	11am - 11pm	11am - 11pm	8pm - 1am
FRI:	11am - 3am	11am - 3am	11am - 11pm	11am - 11pm	8pm - 2:30am
SAT:	11am - 3am	11am - 3am	11am - 11pm	11am - 11pm	8pm - 2:30am

License Number: ABRA-086298 Applicant: Tas, LLC
License Class/Type: C Restaurant Trade Name: Libertine
ANC: 1C Premise Address: 2435 18TH ST NW

Endorsements: Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	10am - 2am	10am -2am	12pm - 10pm	12pm - 10pm	10:00pm - 1:00am
MON:	5pm - 1:30am	5pm - 1:30am	5pm - 1:30am	5pm - 1:30pm	8:00pm - 1:00am
TUE:	5pm - 1:30am	5pm - 1:30am	5pm - 1:30am	5pm - 1:30am	8:00pm - 1:00am
WED:	5pm - 1:30am	5pm - 1:30am	5pm - 1:30am	5pm - 1:30am	8:00pm - 1:00am
THU:	5pm - 1:30am	5pm - 1:30am	5pm - 1:30am	5pm - 1:30am	8:00pm - 1:00am
FRI:	5pm - 3am	5pm - 3am	5pm - 2am	5pm - 2am	9:00pm - 1:00am
SAT:	10am - 3am	10am - 3am	5pm - 2am	5pm - 2am	9:00pm - 1:00am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
 PETITION DATE: 4/29/2013
 HEARING DATE: 5/13/2013

License Number: ABRA-088283
 License Class/Type: C Restaurant
 ANC: 1C

Applicant: Southern Hospitality LLC
 Trade Name: Southern Hospitality
 Premise Address: 1813 - 1815 ADAMS MILL RD NW

Endorsements: Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	11am - 2am	11am -2am	11am - 11am	11am - 12am	-
MON:	11am - 2am	11am - 2am	11am - 11am	11am - 12am	-
TUE:	11am - 2am	11am - 2am	11am - 11am	11am - 12am	-
WED:	11am - 2am	11am - 2am	11am - 11am	11am - 12am	-
THU:	11am - 2am	11am - 2am	11am - 11am	11am - 12am	-
FRI:	11am - 3am	11am - 3am	11am - 11am	11am - 2am	-
SAT:	11am - 3am	11am - 3am	11am - 11am	11am - 2am	-

License Number: ABRA-088564
 License Class/Type: C Restaurant
 ANC: 5B

Applicant: Menomale LLC
 Trade Name: MENOMALE, LLC
 Premise Address: 2711 12TH ST NE

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11am - 12 am	11 am -12 am	11 am - 12 am	11 am - 12 am	-
MON:	11am - 12 am	11am-2pm, - 5pm-12am	5 pm - 11 pm	5 pm - 11 pm	-
TUE:	11 am - 12 am	11am-2pm, - 5pm-12am	5 pm - 11 pm	5 pm - 11 pm	-
WED:	11am - 12 am	11am-2pm, - 5pm-12am	5 pm - 11 pm	5 pm - 11 pm	-
THU:	11am - 12 am	11am-2pm, - 5pm-12am	5 pm - 11 pm	5 pm - 11 pm	-
FRI:	11am - 2am	11am-2pm, - 5pm-12am	5 pm - 11 pm	5 pm - 11 pm	-
SAT:	11am - 2am	11am - 2am	11 am - 12 am	11 am - 12 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-089282
License Class/Type: C Restaurant
ANC: 6C

Applicant: The Sushi Company of North America LLC
Trade Name: YO! SUSHI
Premise Address: 50 MASSACHUSETTS AVE NE

Endorsements: Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	12 pm - 6 pm	12 pm -6 pm	12 pm - 12 pm	12 pm - 6 pm	-
MON:	10 am - 9 pm	10 an - 9 pm	10 am - 10 am	10 am - 9 pm	-
TUE:	10 am - 9 pm	10 am - 9 pm	10 am - 10 am	10 am - 9 pm	-
WED:	10 am - 9 pm	10 am - 9 pm	10 am - 10 am	10 am - 9 pm	-
THU:	10 am - 9 pm	10 am - 9 pm	10 am - 10 am	10 am - 9 pm	-
FRI:	10 am - 9 pm	10 am - 9 pm	10 am - 10 am	10 am - 9 pm	-
SAT:	10 am - 9 pm	10 am - 9 pm	10 am - 10 am	10 am - 9 pm	-

License Number: ABRA-091375
License Class/Type: C Restaurant
ANC: 3C

Applicant: Augustus, LLC
Trade Name: Paragon Thai Restaurant
Premise Address: 3507 CONNECTICUT AVE NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	12 pm - 10:30 pm	12 pm -10:30 pm	-
MON:	11 am - 10 pm	11 am - 10 pm	-
TUE:	11 am - 10 pm	11 am - 10 pm	-
WED:	11 am - 10 pm	11 am - 10 pm	-
THU:	11 am - 10 pm	11 am - 10 pm	-
FRI:	11 am - 11 pm	11 am - 11 pm	-
SAT:	12 pm - 11 pm	12 pm - 11 pm	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-088264

Applicant: Carolina D. Nunez

License Class/Type: C Restaurant

Trade Name: Maranon Cafe

ANC: 1A

Premise Address: 3521 14TH ST NW

Endorsements: Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	7 am - 3 am	8 am - 2 am	7 pm - 2:45
MON:	7 am - 3 am	8 am - 2 am	N/A -
TUE:	7 am - 3 am	8 am - 2 am	N/A -
WED:	7 am - 3 am	8 am - 2 am	N/A -
THU:	7 am - 3 am	8 am - 2 am	7 pm - 2:45 am
FRI:	7 am - 3 am	8 am - 3 am	7 pm - 2:45 am
SAT:	7 am - 3 am	8 am - 3 am	7 pm - 2:45 am

License Number: ABRA-070876

Applicant: El Amigo, Inc.

License Class/Type: C Restaurant

Trade Name: El Amigo Restaurant

ANC: 1A07

Premise Address: 3612 14TH ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	8 am - 1 am	11 am - 1 am	-
MON:	8 am - 1 am	11 am - 1 am	-
TUE:	8 am - 1 am	11 am - 1 am	-
WED:	8 am - 1 am	11 am - 1 am	-
THU:	8 am - 1 am	11 am - 1 am	-
FRI:	8 am - 1 am	11 am - 1 am	-
SAT:	8 am - 1 am	11 am - 1 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC NOTICE

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-078091

Applicant: AAB, LLC

License Class/Type: C Restaurant

Trade Name: Black Squirrel

ANC: 1B

Premise Address: 2427 18TH ST NW B

Endorsements: Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	8 am - 2 am	10 am - 2 am	11 am - 12 am	11 am - 12 am	7 pm - 12:30 am
MON:	8 am - 2 am	8 am - 2 am	11 am - 12 am	11 am - 12 am	8 pm - 12:30 am
TUE:	8 am - 2 am	8 am - 2 am	11 am - 12 am	11 am - 12 am	8 pm - 12:30 am
WED:	8 am - 2 am	8 am - 2 am	11 am - 12 am	11 am - 12 am	8 pm - 12:30 am
THU:	8 am - 2 am	8 am - 2 am	11 am - 12 am	11 am - 12 am	8 pm - 12:30 am
FRI:	8 am - 3 am	8 am - 3 am	11 am - 1 am	11 am - 1 am	8 pm - 12:30 am
SAT:	8 am - 3 am	8 am - 3 am	11 am - 1 am	11 am - 1 am	7 pm - 12:30 am

License Number: ABRA-090369

Applicant: Taco El Chilango (DC) LLC

License Class/Type: C Restaurant

Trade Name: Taco El Chilango

ANC: 1B

Premise Address: 1119 V ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11am - 11pm	11am - 11pm	-
MON:	11am - 11pm	11am - 11pm	-
TUE:	11am - 11pm	11am - 11pm	-
WED:	11am - 11pm	11am - 11pm	-
THU:	11am - 11pm	11am - 11pm	-
FRI:	11am - 11pm	11am - 11pm	-
SAT:	11am - 11pm	11am - 11pm	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-081030
License Class/Type: C Restaurant
ANC: 1B

Applicant: Mesobe Restaurant and Deli Market
Trade Name: Mesobe Restaurant and Deli Market
Premise Address: 1853 7TH ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10 am - 2 am	11 am - 2 am	-
MON:	10 am - 2 am	11 am - 2 am	-
TUE:	10 am - 2 am	11 am - 2 am	-
WED:	10 am - 2 am	11 am - 2 am	-
THU:	10 am - 2 am	11 am - 2 am	-
FRI:	10 am - 3 am	11 am - 3 am	-
SAT:	10 am - 3 am	11 am - 3 am	-

License Number: ABRA-081772
License Class/Type: C Restaurant
ANC: 1B

Applicant: Siam House DC Inc.
Trade Name: Siam House DC
Premise Address: 3520 CONNECTICUT AVE NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	12 pm - 10 pm	12 pm - 10 pm	-
MON:	11 am - 10 pm	11 am - 10 pm	-
TUE:	11 am - 10 pm	11 am - 10 pm	-
WED:	11 am - 10 pm	11 am - 10 pm	-
THU:	11 am - 10 pm	11 am - 10 pm	-
FRI:	11 am - 11 pm	11 am - 11 pm	-
SAT:	12 pm - 11 pm	12 pm - 11 pm	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

**POSTING DATE: 3/15/2013
 PETITION DATE: 4/29/2013
 HEARING DATE: 5/13/2013**

**License Number: ABRA-071881 Applicant: Alero of U Street, Inc.
 License Class/Type: C Restaurant Trade Name: Alero Restaurant and Lounge
 ANC: 1B02 Premise Address: 1301 U ST NW B**

Endorsements: Cover Charge, Dancing, Entertainment, Sidewalk Cafe, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Summer Garden Operation	Hours of Entertainment
SUN:	11 am - 3 am	11 am - 2 am	11:30 am - 1 am	11:30 am - 2 am	11 am - 8 pm
MON:	11 am - 3 am	11 am - 2 am	11:30 am - 1 am	11:30 am - 2 am	3 pm - 10 pm
TUE:	11 am - 3 am	11 am - 2 am	11:30 am - 1 am	11:30 am - 2 am	3 pm - 10 pm
WED:	11 am - 3 am	11 am - 2 am	11:30 am - 1 am	11:30 am - 2 am	3 pm - 10 pm
THU:	11 am - 3 am	11 am - 2 am	11:30 am - 1 am	11:30 am - 2 am	3 pm - 2 am
FRI:	11 am - 4 am	11 am - 3 am	11:30 am - 1 am	11:30 am - 3 am	3 pm - 3 am
SAT:	11 am - 4 am	11 am - 3 am	11:30 am - 1 am	11:30 am - 3 am	11 am - 3 am

**License Number: ABRA-071023 Applicant: Rumba Inc.
 License Class/Type: C Restaurant Trade Name: Rumba Cafe
 ANC: 1C Premise Address: 2443 18TH ST NW**

Endorsements: Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
MON:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
TUE:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
WED:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
THU:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	10 pm - 1:30 am
FRI:	11 am - 3 am	11 am - 3 am	11 am - 3 am	11 am - 3 am	10 pm - 2:30 am
SAT:	11 am - 3 am	11 am - 3 am	11 am - 3 am	11 am - 3 am	10 pm - 2:30 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-072529
License Class/Type: C Restaurant
ANC: 1C

Applicant: Ventnor Group, LLC
Trade Name: Ventnor Sports Cafe
Premise Address: 2411 18TH ST NW

Endorsements: Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 12 am	-
MON:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 12 am	-
TUE:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 12 am	-
WED:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 12 am	-
THU:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 12 am	-
FRI:	11 am - 3 am	11 am - 3 am	11 am - 11 am	11 am - 1 am	-
SAT:	11 am - 3 am	11 am - 3 am	11 am - 11 am	11 am - 1 am	-

License Number: ABRA-077454
License Class/Type: C Restaurant
ANC: 1D

Applicant: Marleny's Restaurant Inc.
Trade Name: Marleny's Restaurant & Carryout
Premise Address: 3201 MOUNT PLEASANT ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	6 am - 1:30 am	10 am - 1:30 am	-
MON:	6 am - 12:30 am	10 am - 12:30 am	-
TUE:	6 am - 12 :30 am	10 am - 12:30 am	-
WED:	6 am - 12:30 am	10 am - 12:30 am	-
THU:	6 am - 12:30 am	10 am - 12:30 am	-
FRI:	6 am - 2:30 am	10 am - 2:30 am	-
SAT:	6 am - 2:30 am	10 am - 2:30 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-021925
License Class/Type: C Restaurant
ANC: 1D04

Applicant: Jamie T. Carrillo
Trade Name: Don Jaime
Premise Address: 3209 MT PLEASANT ST NW

Endorsements: Cover Charge, Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	7 am - 2 am	10 am - 2 am	10 am - 2 am
MON:	7 am - 2 am	8 am - 2 am	8 am - 2 am
TUE:	7 am - 2 am	8 am - 2 am	8 am - 2 am
WED:	7 am - 2 am	8 am - 2 am	8 am - 2 am
THU:	7 am - 2 am	8 am - 2 am	8 am - 2 am
FRI:	7 am - 3 am	8 am - 3 am	8 am - 3 am
SAT:	7 am - 3 am	8 am - 3 am	8 am - 3 am

License Number: ABRA-060095
License Class/Type: C Restaurant
ANC: 2A

Applicant: Froggy Times, Inc.
Trade Name: Froggy Bottom Pub
Premise Address: 2142 PENNSYLVANIA AVE NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 1 am	11 am - 1 am			-
MON:	11 am - 2 am	11 am - 2 am	11 am - 1 am	11 am - 1 am	-
TUE:	11 am - 2 am	11 am - 2 am	11 am - 1 am	11 am - 1 am	-
WED:	11 am - 2 am	11 am - 2 am	11 am - 1 am	11 am - 1 am	-
THU:	11 am - 2 am	11 am - 2 am	11 am - 1 am	11 am - 1 am	-
FRI:	11 am - 3 am	11 am - 3 am	11 am - 1 am	11 am - 1 am	-
SAT:	11 am - 3 am	11 am - 3 am	5 pm - 2 am	5 pm - 2 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-078312
License Class/Type: C Hotel
ANC: 2A06

Applicant: State Plaza Hotel Inc. and Catering Solutions L
Trade Name: State Plaza Hotel/F Street Bistro
Premise Address: 2116 F ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10 am - 2 am	10 am - 2 am	-
MON:	8 am - 2 am	8 am - 2 am	-
TUE:	8 am - 2 am	8 am - 2 am	-
WED:	8 am - 2 am	8 am - 2 am	-
THU:	8 am - 2 am	8 am - 2 am	-
FRI:	8 am - 3 am	8 am - 3 am	-
SAT:	8 am - 3 am	8 am - 3 am	-

License Number: ABRA-074661
License Class/Type: C Restaurant
ANC: 2B

Applicant: Guerra, LLC
Trade Name: The Meeting Place
Premise Address: 1100 17TH ST NW

Endorsements: Cover Charge, Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	12 pm - 1 am	12 pm - 1 am	12 pm - 1 am
MON:	11 am - 2 am	11 am - 1:30 am	6 pm - 1:30 am
TUE:	11 am - 2 am	11 am - 1:30 am	6 pm - 1:30 am
WED:	11 am - 2 am	11 am - 1:30 am	6 pm - 1:30 am
THU:	11 am - 2 am	11 am - 1:30 am	6 pm - 1:30 am
FRI:	11 am - 3:30 am	11 am - 3 am	6 pm - 3 am
SAT:	11 am - 3:30 am	11 am - 3 am	12 pm - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

**POSTING DATE: 3/15/2013
 PETITION DATE: 4/29/2013
 HEARING DATE: 5/13/2013**

**License Number: ABRA-076962
 License Class/Type: C Restaurant
 ANC: 2B**

**Applicant: Momiji Rest. Corp
 Trade Name: Momiji
 Premise Address: 503 H ST NW**

Endorsements: Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 10 pm	-
MON:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 10 pm	-
TUE:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 10 pm	-
WED:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 10 pm	-
THU:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 10 pm	-
FRI:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 11 pm	-
SAT:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 11 pm	-

**License Number: ABRA-060138
 License Class/Type: C Restaurant
 ANC: 2B**

**Applicant: Cafe Dupont, LLC
 Trade Name: Cafe Citron
 Premise Address: 1343 CONNECTICUT AVE NW**

Endorsements: Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10 am - 2 am	10 am - 2 am	6 pm - 2 am
MON:	11 am - 2 am	11 am - 2 am	8 pm - 2 am
TUE:	11 am - 2 am	11 am - 2 am	8 pm - 2 am
WED:	11 am - 2 am	11 am - 2 am	8 pm - 2 am
THU:	11 am - 2 am	11 am - 2 am	8 pm - 2 am
FRI:	11 am - 3 am	11 am - 3 am	8 pm - 3 am
SAT:	3 pm - 3 am	3 pm - 3 am	6 pm - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-020177
License Class/Type: C Restaurant
ANC: 2B

Applicant: CSM Inc.
Trade Name: Otello
Premise Address: 1329 CONNECTICUT AVE NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	12 pm - 10:30 pm	12 pm -10:30 pm	-
MON:	12 pm - 10:30 pm	12 pm - 10:30 pm	-
TUE:	12 pm - 10:30 pm	12 pm - 10:30 pm	-
WED:	12 pm - 10:30 pm	12 pm - 10:30 pm	-
THU:	12 pm - 10:30 pm	12 pm - 10:30 pm	-
FRI:	12 pm - 10:30 pm	12 pm - 10:30 pm	-
SAT:	5:30 pm - 10:30 pm	5:30 pm - 10:30 pm	-

License Number: ABRA-087559
License Class/Type: C Restaurant
ANC: 2B

Applicant: Mari Vanna DC, LLC
Trade Name: Mari Vanna Restaurant
Premise Address: 1141 CONNECTICUT AVE NW

Endorsements: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	9 am - 2 am	10 am -2 am	6 pm - 2 am
MON:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
TUE:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
WED:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
THU:	9 am - 2 am	9 am - 2 am	6 pm - 2 am
FRI:	9 am - 2:30 am	9 am - 2:30 am	6 pm - 2:30 am
SAT:	9 am - 2:30 am	9 am - 2:30 am	6 pm - 2:30 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-080108
License Class/Type: C Restaurant
ANC: 2B

Applicant: Clamenzah, LLC
Trade Name: Food Corner Kabob
Premise Address: 2029 P ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10:30 am - 2 am	10:30 am - 2 am	-
MON:	10:30 am - 2 am	10:30 am - 2 am	-
TUE:	10:30 am - 2 am	10:30 am - 2 am	-
WED:	10:30 am - 2 am	10:30 am - 2 am	-
THU:	10:30 am - 2 am	10:30 am - 2 am	-
FRI:	10:30 am - 3 am	10:30 am - 3 am	-
SAT:	10:30 am - 3 am	10:30 am - 3 am	-

License Number: ABRA-001151
License Class/Type: C Restaurant
ANC: 2B02

Applicant: The Washington Palm Inc.
Trade Name: The Washington Palm
Premise Address: 1225 19TH ST NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	5:30 pm - 12 am	5:30 pm - 12 am	5:30 pm - 11 pm	5:30 pm - 11 pm	-
MON:	11:30 am - 12 am	11:30 am - 12 am	11:45 am - 10:30 pm	11:45 am - 10:30 pm	-
TUE:	11:30 am - 12 am	11:30 am - 12 am	11:45 am - 10:30 pm	11:45 am - 10:30 pm	-
WED:	11:30 am - 12 am	11:30 am - 12 am	11:45 am - 10:30 pm	11:45 am - 10:30 pm	-
THU:	11:30 am - 12 am	11:30 am - 12 am	11:45 am - 10:30 pm	11:45 am - 10:30 pm	-
FRI:	11:30 am - 12 am	11:30 am - 12 am	11:45 am - 11 pm	11:45 am - 11 pm	-
SAT:	5:30 pm - 12 am	5:30 pm - 12 am	5:30 pm - 11 pm	5:30 pm - 11 pm	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

**POSTING DATE: 3/15/2013
 PETITION DATE: 4/29/2013
 HEARING DATE: 5/13/2013**

**License Number: ABRA-000150
 License Class/Type: C Club
 ANC: 2B02**

**Applicant: Cosmos Club
 Trade Name: Cosmos Club
 Premise Address: 2121 MASSACHUSETTS AVE NW**

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	7 am - 11 pm	11 am - 3 pm	-
MON:	7 am - 11 pm	11 am - 11 pm	-
TUE:	7 am - 11 pm	11 am - 11 pm	-
WED:	7 am - 11 pm	11 am - 11 pm	-
THU:	7 am - 11 pm	11 am - 11 pm	-
FRI:	7 am - 11 pm	11 am - 11 pm	-
SAT:	7 am - 11 pm	11 am - 11 pm	-

**License Number: ABRA-011919
 License Class/Type: C Restaurant
 ANC: 2B02**

**Applicant: Kramer Books & Afterwords Inc.
 Trade Name: Kramerbooks & Afterwords
 Premise Address: 1517 CONNECTICUT AVE NW**

Endorsements: Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	3 am - 1 am	10 am - 1 am	8 am - 1 am	8 am - 1 am	none - none
MON:	7:30 am - 1 am	11 am - 1 am	8 am - 1 am	8 am - 1 am	none - none
TUE:	7:30 am - 1 am	11 am - 1 am	8 am - 1 am	8 am - 1 am	none - none
WED:	7:30 am - 1 am	11 am - 1 am	8 am - 1 am	8 am - 1 am	9 pm - 12 am
THU:	7:30 am - 1 am	11 am - 1 am	8 am - 1 am	8 am - 1 am	9 pm - 12 am
FRI:	7:30 am - 3 am	11 am - 3 am	8 am - 2 am	8 am - 2 am	10 pm - 1 am
SAT:	3 am - 3 am	10 am - 3 am	8 am - 2 am	8 am - 2 am	10 pm - 1 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-060134
License Class/Type: C Restaurant
ANC: 2B02

Applicant: Alero, Inc.
Trade Name: Alero Restaurant-1
Premise Address: 1724 CONNECTICUT AVE NW A

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	9:00 am - 12:00 am	9:00 am -12:00 am	-
MON:	9:00 am - 12:00 am	9:00 am - 12:00 am	-
TUE:	9:00 am - 12:00 am	9:00 am - 12:00 am	-
WED:	9:00 am - 12:00 am	9:00 am - 12:00 am	-
THU:	9:00 am - 12:00 am	9:00 am - 12:00 am	-
FRI:	9:00 am - 3:00 am	9:00 am - 3:00 am	-
SAT:	9:00 am - 3:00 am	9:00 am - 3:00 am	-

License Number: ABRA-022928
License Class/Type: C Restaurant
ANC: 2B02

Applicant: Thai Chef Inc.
Trade Name: Thai Chef
Premise Address: 1712 CONNECTICUT AVE NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	12 pm - 10:30 pm	12 pm -10:30 pm	-
MON:	11:30 am - 10:30 pm	11:30 am - 10:30 pm	-
TUE:	11:30 am - 10:30 pm	11:30 am - 10:30 pm	-
WED:	11:30 am - 10:30 pm	11:30 am - 10:30 pm	-
THU:	11:30 am - 10:30 pm	11:30 am - 10:30 pm	-
FRI:	11:30 am - 11 pm	11:30 am - 11 pm	-
SAT:	12 pm - 11 pm	12 pm - 11 pm	-

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-077024
License Class/Type: C Hotel
ANC: 2B02

Applicant: Arep Embassy Row LlcF EIN #20858
Trade Name: Hilton Washington Embassy Row Hotel
Premise Address: 2015 MASSACHUSETTS AVE NW A

Endorsements: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	24 Hours -	10 am -2 am	6 pm - 2 am
MON:	24 Hours -	8 am - 2 am	6 pm - 2 am
TUE:	24 Hours -	8 am - 2 am	6 pm - 2 am
WED:	24 Hours -	8 am - 2 am	6 pm - 2 am
THU:	24 Hours -	8 am - 2 am	6 pm - 2 am
FRI:	24 Hours -	8 am - 3 am	6 pm - 3 am
SAT:	24 Hours -	8 am - 3 am	6 pm - 3 am

License Number: ABRA-008949
License Class/Type: C Restaurant
ANC: 2B04

Applicant: H L S, Inc.
Trade Name: Dupont Italian Kitchen
Premise Address: 1637 17TH ST NW

Endorsements: Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	10:30 am - 2 am	10:30 am -2 am	10:30 am - 2 am	10:30 am - 2 am	6 pm - 2 am
MON:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
TUE:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
WED:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
THU:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	6 pm - 2 am
FRI:	11 am - 3 am	11 am - 3 am	11 am - 3 am	11 am - 3 am	6 pm - 3 am
SAT:	10:30 am - 3 am	10:30 am - 3 am	10:30 am - 3 am	10:30 am - 3 am	6 pm - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC NOTICE

Persons objecting to the approval of a renewal application are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, NW, 4th Floor, Washington, DC 20009.

RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-075875
License Class/Type: C Restaurant
ANC: 2B06

Applicant: Ku-Washington Corporation
Trade Name: Sichuan Pavilion
Premise Address: 1814 K ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 11 pm	11 am -11 pm	-
MON:	11 am - 11 pm	11 am - 11 pm	-
TUE:	11 am - 11 pm	11 am - 11 pm	-
WED:	11 am - 11 pm	11 am - 11 pm	-
THU:	11 am - 11 pm	11 am - 11 pm	-
FRI:	11 am - 11 pm	11 am - 11 pm	-
SAT:	11 am - 11 pm	11 am - 11 pm	-

License Number: ABRA-083415
License Class/Type: C Restaurant
ANC: 2C

Applicant: MT 617 Corporation
Trade Name: Ming's
Premise Address: 617 H ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 2 am	11 am -2 am	-
MON:	11 am - 2 am	11 am - 2 am	-
TUE:	11 am - 2 am	11 am - 2 am	-
WED:	11 am - 2 am	11 am - 2 am	-
THU:	11 am - 2 am	11 am - 2 am	-
FRI:	11 am - 3 am	11 am - 3 am	-
SAT:	11 am - 3 am	11 am - 3 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-083808
License Class/Type: C Restaurant
ANC: 2C

Applicant: PHO DC, Inc
Trade Name: Pho DC
Premise Address: 608 H ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	9 am - 2 am	10 am - 2 am	-
MON:	9 am - 2 am	9 am - 2 am	-
TUE:	9 am - 2 am	9 am - 2 am	-
WED:	9 am - 2 am	9 am - 2 am	-
THU:	9 am - 2 am	9 am - 2 am	-
FRI:	9 am - 3 am	9 am - 3 am	-
SAT:	9 am - 3 am	9 am - 3 am	-

License Number: ABRA-001445
License Class/Type: C Hotel
ANC: 2C

Applicant: Tabard Corporation
Trade Name: Hotel Tabard Inn
Premise Address: 1739 N ST NW

Endorsements: Dancing, Entertainment, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	24 hours -	10:30 am - 2 am	10:30 am - 10:30 am	10:30 am - 1 am	6 pm - 1 am
MON:	24 hours -	11:30 am - 2 am	11:30 am - 11:30 am	11:30 am - 1 am	6 pm - 1 am
TUE:	24 hours -	11:30 am - 2 am	11:30 am - 11:30 am	11:30 am - 1 am	6 pm - 1 am
WED:	24 hours -	11:30 am - 2 am	11:30 am - 11:30 am	11:30 am - 1 am	6 pm - 1 am
THU:	24 hours -	11:30 am - 2 am	11:30 am - 11:30 am	11:30 am - 1 am	6 pm - 1 am
FRI:	24 hours -	11:30 am - 2:30 am	11:30 am - 11:30 am	11:30 am - 1 am	6 pm - 1 am
SAT:	24 hours -	11 am - 2:30 am	11 am - 11 am	11 am - 1 am	6 pm - 1 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-060635
License Class/Type: C Restaurant
ANC: 2C03

Applicant: Ella's Wood-fired Pizza, LLC
Trade Name: Ella's Wood-Fired Pizza, LLC
Premise Address: 901 F ST NW B

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	10 am - 2 am	10 am - 2 am	11 am - 11 pm	11 am - 11 pm	-
MON:	10 am - 2 am	10 am - 2 am	11 am - 11 pm	11 am - 11 pm	-
TUE:	10 am - 2 am	10 am - 2 am	11 am - 11 pm	11 am - 11 pm	-
WED:	10 am - 2 am	10 am - 2 am	11 am - 11 pm	11 am - 11 pm	-
THU:	10 am - 2 am	10 am - 2 am	11 am - 11 pm	11 am - 11 pm	-
FRI:	10 am - 3 am	10 am - 3 am	11 am - 11 pm	11 am - 11 pm	-
SAT:	10 am - 3 am	10 am - 3 am	11 am - 11 pm	11 am - 11 pm	-

License Number: ABRA-060447
License Class/Type: C Restaurant
ANC: 2C03

Applicant: Top Chef, Inc.
Trade Name: Wok and Roll
Premise Address: 604 H ST NW

Endorsements: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10:00 am - 2:00 am	10:00 am - 2:00 am	6:00pm - 1:30am
MON:	10:00 am - 2:00 am	10:00 am - 2:00 am	6:00pm - 1:30am
TUE:	10:00 am - 2:00 am	10:00 am - 2:00 am	6:00pm - 1:30am
WED:	10:00 am - 2:00 am	10:00 am - 2:00 am	6:00pm - 1:30am
THU:	10:00 am - 2:00 am	10:00 am - 2:00 am	6:00pm - 1:30am
FRI:	10:00 am - 3:00 am	10:00 am - 3:00 am	6:00pm - 2:30am
SAT:	10:00 am - 3:00 am	10:00 am - 3:00 am	6:00pm - 2:30am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-011479
License Class/Type: C Restaurant
ANC: 2C03

Applicant: Winners Chinatown, Inc.
Trade Name: Chinatown Express
Premise Address: 746 6TH ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10 am - 11 pm	10 am -10 pm	-
MON:	10 am - 11 pm	10 am - 10 pm	-
TUE:	10 am - 11 pm	10 am - 10 pm	-
WED:	10 am - 11 pm	10 am - 10 pm	-
THU:	10 am - 11 pm	10 am - 10 pm	-
FRI:	10 am - 11 pm	10 am - 10 pm	-
SAT:	10 am - 11 pm	10 am - 10 pm	-

License Number: ABRA-060301
License Class/Type: C Restaurant
ANC: 2C03

Applicant: Burma Restaurant, Inc.
Trade Name: Burma Restaurant
Premise Address: 740 6TH ST NW B

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	6 am - 10 pm	10 am -10 pm	-
MON:	11 am - 10 pm	11 am - 10 pm	-
TUE:	11 am - 10 pm	11 am - 10 pm	-
WED:	11 am - 10 pm	11 am - 10 pm	-
THU:	11 am - 10 pm	11 am - 10 pm	-
FRI:	11 am - 10 pm	11 am - 10 pm	-
SAT:	6 am - 10 pm	10 am - 10 pm	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-076177
License Class/Type: C Restaurant
ANC: 2C03

Applicant: Centerpoint Nine, LLC
Trade Name: Asia Nine Bar and Lounge
Premise Address: 915 E ST NW

Endorsements: Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 12 am	11 am -12 am	11 am - 12 am	11 am - 12 am	6 pm - 12 am
MON:	11 am - 12 am	11 am - 12 am	11 am - 12 am	11 am - 12 am	6 pm - 12 am
TUE:	11 am - 12 am	11 am - 12 am	11 am - 12 am	11 am - 12 am	6 pm - 12 am
WED:	11 am - 12 am	11 am - 12 am	11 am - 12 am	11 am - 12 am	6 pm - 12 am
THU:	11 am - 1 am	11 am - 1 am	11 am - 12 am	11 am - 12 am	6 pm - 1 am
FRI:	11 am - 1 am	11 am - 1 am	11 am - 12 am	11 am - 12 am	6 pm - 1 am
SAT:	11 am - 1 am	11 am - 1 am	11 am - 12 am	11 am - 12 am	6 pm - 1 am

License Number: ABRA-075357
License Class/Type: C Restaurant
ANC: 2C03

Applicant: Brut, LLC
Trade Name: Proof
Premise Address: 775 G ST NW

Endorsements: Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 2 am	11 am -2 am	11 am - 12 am	11 am - 12 am	6 pm - 1 am
MON:	11 am - 2 am	11 am - 2 am	11 am - 12 am	11 am - 12 am	6 pm - 1 am
TUE:	11 am - 2 am	11 am - 2 am	11 am - 12 am	11 am - 12 am	6 pm - 1 am
WED:	11 am - 2 am	11 am - 2 am	11 am - 12 am	11 am - 12 am	6 pm - 1 am
THU:	11 am - 2 am	11 am - 2 am	11 am - 12 am	11 am - 12 am	6 pm - 1 am
FRI:	11 am - 3 am	11 am - 3 am	11 am - 12 am	11 am - 12 am	6 pm - 1 am
SAT:	11 am - 3 am	11 am - 3 am	11 am - 12 am	11 am - 12 am	6 pm - 1 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
 PETITION DATE: 4/29/2013
 HEARING DATE: 5/13/2013

License Number: ABRA-071065
 License Class/Type: C Restaurant
 ANC: 2C03

Applicant: Thai Chili, Inc.
 Trade Name: Thai Chili
 Premise Address: 701 7TH ST NW

Endorsements: Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	11 am - 1 am	11 am - 1 am	11 am - 11 am	11 am - 1 am	-
MON:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 2m	-
TUE:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 2 am	-
WED:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 2 am	-
THU:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 2 am	-
FRI:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 2 am	-
SAT:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 2 am	-

License Number: ABRA-071110
 License Class/Type: C Restaurant
 ANC: 2C03

Applicant: Miso Hungry Inc.
 Trade Name: Sushi Go Round & Tapas
 Premise Address: 705 7TH ST NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 1 am	11 am - 1 am	11 am - 1 am	11 am - 1 am	-
MON:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
TUE:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
WED:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
THU:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
FRI:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-
SAT:	11 am - 2 am	11 am - 2 am	11 am - 2 am	11 am - 2 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-060592
License Class/Type: C Restaurant
ANC: 2C03

Applicant: Hooters of Washington D.C. LLC
Trade Name: Hooters of Washington, D.C.
Premise Address: 827 7TH ST NW

Endorsements: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	12 pm - 11 pm	12 pm - 11 pm	6:00PM - 11:00pm
MON:	11 am - 12 am	11 am - 12 am	6:00pm - 12:00am
TUE:	11 am - 12 am	11 am - 12 am	6:00pm - 12:00am
WED:	11 am - 12 am	11 am - 12 am	6:00pm - 12:00am
THU:	11 am - 12 am	11 am - 12 am	6:00pm - 12:00am
FRI:	11 am - 1 am	11 am - 1 am	6:00pm - 1:00am
SAT:	11 am - 1 am	11 am - 1 am	6:00pm - 1:00am

License Number: ABRA-060797
License Class/Type: C Restaurant
ANC: 2E

Applicant: Lobo's Inc
Trade Name: Don Lobo's Mexican Grill
Premise Address: 2811 M ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10 am - 2 am	10 am - 2 am	-
MON:	11 am - 2 am	11 am - 2 am	-
TUE:	11 am - 2 am	11 am - 2 am	-
WED:	11 am - 2 am	11 am - 2 am	-
THU:	11 am - 2 am	11 am - 2 am	-
FRI:	11 am - 3 am	11 am - 3 am	-
SAT:	10 am - 3 am	10 am - 3 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-060603
License Class/Type: C Restaurant
ANC: 2E

Applicant: Cavit Ozturk
Trade Name: Cafe Divan
Premise Address: 1834 WISCONSIN AVE NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10 am - 11 pm	10 am -11 pm	-
MON:	11 am - 10:30 pm	11 am - 10:30 pm	-
TUE:	11 am - 10:30 pm	11 am - 10:30 pm	-
WED:	11 am - 10:30 pm	11 am - 10:30 pm	-
THU:	11 am - 10:30 pm	11 am - 10:30 pm	-
FRI:	11 am - 11 pm	11 am - 11 pm	-
SAT:	10 am - 11 pm	10 am - 11 pm	-

License Number: ABRA-000638
License Class/Type: C Club
ANC: 2E

Applicant: The Alibi Club of Washington Inc.
Trade Name: The Alibi Club
Premise Address: 1806 I ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	-	-	-
MON:	-	-	-
TUE:	9 am - 6:30 pm	9 am - 6:30 pm	-
WED:	-	-	-
THU:	9 am - 6:30 pm	9 am - 6:30 pm	-
FRI:	9 am - 6:30 pm	9 am - 6:30 pm	-
SAT:	-	-	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-001428
License Class/Type: C Restaurant
ANC: 2E05"

Applicant: Bistro Francais, Ltd
Trade Name: Bistro Francais
Premise Address: 3124 M ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 3 am	11 am - 2 am	-
MON:	11 am - 3 am	11 am - 2 am	-
TUE:	11 am - 3 am	11 am - 2 am	-
WED:	11 am - 3 am	11 am - 2 am	-
THU:	11 am - 3 am	11 am - 2 am	-
FRI:	11 am - 4 am	11 am - 3 am	-
SAT:	11 am - 4 am	11 am - 3 am	-

License Number: ABRA-000850
License Class/Type: C Restaurant
ANC: 2E06"

Applicant: P & P Corp
Trade Name: La Chaumiere
Premise Address: 2813 M ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11:30 am - 10:30 pm	11:30 am - 10:30 pm	-
MON:	11:30 am - 10:30 pm	11:30 am - 10:30 pm	-
TUE:	11:30 am - 10:30 pm	11:30 am - 10:30 pm	-
WED:	11:30 am - 10:30 pm	11:30 am - 10:30 pm	-
THU:	11:30 am - 10:30 pm	11:30 am - 10:30 pm	-
FRI:	11:30 am - 10:30 pm	11:30 am - 10:30 pm	-
SAT:	11:30 am - 10:30 pm	11:30 am - 10:30 pm	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-024338
License Class/Type: C Restaurant
ANC: 2F

Applicant: Mauricio V. Arias
Trade Name: El Rinconcito Cafe
Premise Address: 1129 11TH ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	10 am - 2 am	10 am - 2 am	-
MON:	10 am - 11 pm	10 am - 11 pm	-
TUE:	10 am - 11 pm	10 am - 11 pm	-
WED:	10 am - 11 pm	10 am - 11 pm	-
THU:	10 am - 11 pm	10 am - 11 pm	-
FRI:	10 am - 2 am	10 am - 2 am	-
SAT:	10 am - 2 am	10 am - 2 am	-

License Number: ABRA-072438
License Class/Type: C Restaurant
ANC: 2F

Applicant: RCJ, Inc.
Trade Name: Stan's Restaurant
Premise Address: 1029 VERMONT AVE NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	12 pm - 12 am	12 pm - 12 am	-
MON:	11 am - 2 am	11 am - 2 am	-
TUE:	11 am - 2 am	11 am - 2 am	-
WED:	11 am - 2 am	11 am - 2 am	-
THU:	11 am - 2 am	11 am - 2 am	-
FRI:	11 am - 2 am	11 am - 2 am	-
SAT:	11 am - 2 am	11 am - 2 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-060559
License Class/Type: C Restaurant
ANC: 2F

Applicant: Thai Tanic, Inc.
Trade Name: Thai Tanic Rest./Tsunami Sushi & Lounge
Premise Address: 1326 14TH ST NW

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 1 am	11 am - 1 am	-
MON:	11 am - 1 am	11 am - 1 am	-
TUE:	11 am - 1 am	11 am - 1 am	-
WED:	11 am - 1 am	11 am - 1 am	-
THU:	11 am - 1 am	11 am - 1 am	-
FRI:	11 am - 1 am	11 am - 1 am	-
SAT:	11 am - 1 am	11 am - 1 am	-

License Number: ABRA-087730
License Class/Type: C Restaurant
ANC: 2F

Applicant: Tortino Restaurant, Inc.
Trade Name: Tortino Restaurant
Premise Address: 1228 11TH ST NW

Endorsements: Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 2 am	11 am - 2 am	8 pm - 2 am
MON:	11 am - 2 am	11 am - 2 am	8 pm - 2 am
TUE:	11 am - 2 am	11 am - 2 am	8 pm - 2 am
WED:	11 am - 2 am	11 am - 2 am	8 pm - 2 am
THU:	11 am - 2 am	11 am - 2 am	8 pm - 2 am
FRI:	11 am - 3 am	11 am - 3 am	8 pm - 3 am
SAT:	11 am - 3 am	11 am - 3 am	8 pm - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-088178
License Class/Type: C Restaurant
ANC: 2F

Applicant: Ann Goal LLC
Trade Name: DC Thai Restaurant and Bakery
Premise Address: 1018 VERMONT AVE NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	12 pm - 11 pm	12 am -11 pm	12 pm - 11 pm	12 pm - 11 pm	-
MON:	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	-
TUE:	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	-
WED:	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	-
THU:	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	-
FRI:	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	-
SAT:	12 pm - 11 pm	12 pm - 11 pm	12 pm - 11 pm	12 pm - 11 pm	-

License Number: ABRA-009713
License Class/Type: C Hotel
ANC: 2F03

Applicant: Willard Associates **FEIN #5813499**
Trade Name: The Willard Inter-Continental Hotel
Premise Address: 1401 PENNSYLVANIA AVE NW

Endorsements: Entertainment, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	24 hours -	8am -2am	12 pm - 12 pm	12 pm - 10 pm	6 pm - 2am
MON:	24 hours -	8am - 2am	12 pm - 12 pm	12 pm - 10 pm	6 pm - 2am
TUE:	24 hours -	8am - 2am	12 pm - 12 pm	12 pm - 10 pm	6 pm - 2am
WED:	24 hours -	8am - 2am	12 pm - 12 pm	12 pm - 10 pm	6 pm - 2am
THU:	24 hours -	8am - 2am	12 pm - 12 pm	12 pm - 10 pm	6 pm - 2am
FRI:	24 hours -	8am - 3am	12 pm - 12 pm	12 pm - 11 pm	6 pm - 3am
SAT:	24 hours -	8am - 3am	12 pm - 12 pm	12 pm - 11 pm	6 pm - 3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC NOTICE

Persons objecting to the approval of a renewal application are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, NW, 4th Floor, Washington, DC 20009.

RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-060278
License Class/Type: C Restaurant
ANC: 3C

Applicant: Khyber Pass Corp
Trade Name: Afghan Grill
Premise Address: 2309 CALVERT ST NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 12 am	11 am -12 am	11 am - 12 am	11 am - 12 am	-
MON:	11 am - 12 am	11 am - 12 am	11 am - 12 am	11 am - 12 am	-
TUE:	11 am - 12 am	11 am - 12 am	11 am - 12 am	11 am - 12 am	-
WED:	11 am - 12 am	11 am - 12 am	11 am - 12 am	11 am - 12 am	-
THU:	11 am - 12 am	11 am - 12 am	11 am - 12 am	11 am - 12 am	-
FRI:	11 am - 12 am	11 am - 12 am	11 am - 12 am	11 am - 12 am	-
SAT:	11 am - 12 am	11 am - 12 am	11 am - 12 am	11 am - 12 am	-

License Number: ABRA-085876
License Class/Type: C Restaurant
ANC: 3C

Applicant: Clover Cleveland Park, LLC
Trade Name: Cafe Deluxe
Premise Address: 3226 - 3230 WISCONSIN AVE NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	10:30 am - 1 am	10:30 am -1 am	11:30 am - 11 pm	11:30 am - 11 pm	-
MON:	11:30 am - 1 am	11:30 am - 1 am	11:30 am - 11 pm	11:30 am - 11 pm	-
TUE:	11:30 am - 1 am	11:30 am - 1 am	11:30 am - 11 pm	11:30 am - 11 pm	-
WED:	11:30 am - 1 am	11:30 am - 1 am	11:30 am - 11 pm	11:30 am - 11 pm	-
THU:	11:30 am - 1 am	11:30 am - 1 am	11:30 am - 11 pm	11:30 am - 11 pm	-
FRI:	11:30 am - 2 am	11:30 am - 2 am	11:30 am - 11 pm	11:30 am - 11 pm	-
SAT:	10:30 am - 2 am	10:30 am - 2 am	11:30 am - 11 pm	11:30 am - 11 pm	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-013738
License Class/Type: C Restaurant
ANC: 3C05

Applicant: Los Amigos of DC, Inc.
Trade Name: Alero Restaurant
Premise Address: 3500 CONNECTICUT AVE NW

Endorsements: Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	11 am - 12:30 am	11 am -12:30 am	11 am - 11 am	11 am - 12:30 am	-
MON:	11 am - 12:30 am	11 am - 12:30 am	11 am - 11 am	11 am - 12:30 am	-
TUE:	11 am - 12:30 am	11 am - 12:30 am	11 am - 11 am	11 am - 12:30 am	-
WED:	11 am - 12:30 am	11 am - 12:30 am	11 am - 11 am	11 am - 12:30 am	-
THU:	11 am - 12:30 am	11 am - 12:30 am	11 am - 11 am	11 am - 12:30 am	-
FRI:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 2 am	-
SAT:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 2 am	-

License Number: ABRA-060748
License Class/Type: C Restaurant
ANC: 3D

Applicant: Black Salt Fish, LLC
Trade Name: Black Salt Fish & Market
Premise Address: 4883 MACARTHUR BLVD N

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 10 pm	11 am -10 pm	-
MON:	11:30 am - 10 pm	11:30 am - 10 pm	-
TUE:	11:30 am - 10 pm	11:30 am - 10 pm	-
WED:	11:30 am - 10 pm	11:30 am - 10 pm	-
THU:	11:30 am - 10 pm	11:30 am - 10 pm	-
FRI:	11:30 am - 11 pm	11:30 am - 11 pm	-
SAT:	11 am - 11 pm	11 am - 11 pm	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
 PETITION DATE: 4/29/2013
 HEARING DATE: 5/13/2013

License Number: ABRA-078332
 License Class/Type: C Restaurant
 ANC: 3D05

Applicant: A Modo Mio, Inc.
 Trade Name: Et Voila
 Premise Address: 5120 MACARTHUR BLVD N

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 10:30 pm	11 am -10:30 pm	11 am - 10 pm	11 am - 10 pm	-
MON:	11 am - 11 pm	11 am - 11 pm	11 am - 10 pm	11 am - 10 pm	-
TUE:	11 am - 11 pm	11 am - 11 pm	11 am - 10 pm	11 am - 10 pm	-
WED:	11 am - 11 pm	11 am - 11 pm	11 am - 10 pm	11 am - 10 pm	-
THU:	11 am - 11 pm	11 am - 11 pm	11 am - 10 pm	11 am - 10 pm	-
FRI:	11 am - 12 am	11 am - 12 am	11 am - 10 pm	11 am - 10 pm	-
SAT:	11 am - 12 am	11 am - 12 am	11 am - 10 pm	11 am - 10 pm	-

License Number: ABRA-072256
 License Class/Type: C Restaurant
 ANC: 3E

Applicant: Maggiano's Holding Corporation
 Trade Name: Maggiano's
 Premise Address: 5333 WISCONSIN AVE NW

Endorsements: Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 11 pm	11 am -11 pm	12 pm - 10 pm	12 pm - 10 pm	6 pm - 11 pm
MON:	11 am - 1 am	11 am - 1 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 12 am
TUE:	11 am - 1 am	11 am - 1 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 12 am
WED:	11 am - 1 am	11 am - 1 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 12 am
THU:	11 am - 1 am	11 am - 1 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 12 am
FRI:	11 am - 1 am	11 am - 1 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 12 am
SAT:	11 am - 1 am	11 am - 1 am	11:30 am - 12 am	11:30 am - 12 am	6 pm - 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-072038
License Class/Type: C Restaurant
ANC: 3E

Applicant: Style Concept Studio, LLC
Trade Name: Le Chat Noir
Premise Address: 4907 WISCONSIN AVE NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 11 pm	11 am -11 pm	11 am - 11 pm	11 am - 11 pm	-
MON:	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	-
TUE:	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	-
WED:	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	-
THU:	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	-
FRI:	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	-
SAT:	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	11 am - 11 pm	-

License Number: ABRA-080916
License Class/Type: C Restaurant
ANC: 3F

Applicant: Acacia Skylan, Inc.
Trade Name: Acacia Wellness Bistro
Premise Address: 4340 Connecticut AVE NW

Endorsements: Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	8 am - 12 am	11 am -12 am	8 am - 8 am	11 am - 12 am	-
MON:	6 am - 12 am	11 am - 12 am	6 am - 6 am	11 am - 12 am	-
TUE:	6 am - 12 am	11 am - 12 am	6 am - 6 am	11 am - 12 am	-
WED:	6 am - 12 am	11 am - 12 am	6 am - 6 am	11 am - 12 am	-
THU:	6 am - 12 am	11 am - 12 am	6 am - 6 am	11 am - 12 am	-
FRI:	6 am - 12 am	11 am - 12 am	6 am - 6 am	11 am - 12 am	-
SAT:	8 am - 12 am	11 am - 12 am	8 am - 8 am	11 am - 12 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-060769
License Class/Type: C Restaurant
ANC: 3F

Applicant: Big Bucks, LLC
Trade Name: Buck's Fishing & Camping
Premise Address: 5031 CONNECTICUT AVE NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	10 am - 12 am	10 am -12 am	10 am - 12 am	10 am - 12 am	-
MON:	10 am - 12 am	10 am - 12 am	10 am - 12 am	10 am - 12 am	-
TUE:	10 am - 12 am	10 am - 12 am	10 am - 12 am	10 am - 12 am	-
WED:	10 am - 12 am	10 am - 12 am	10 am - 12 am	10 am - 12 am	-
THU:	10 am - 12 am	10 am - 12 am	10 am - 12 am	10 am - 12 am	-
FRI:	10 am - 1 am	10 am - 1 am	10 am - 1 am	10 am - 1 am	-
SAT:	10 am - 1 am	10 am - 1 am	10 am - 1 am	10 am - 1 am	-

License Number: ABRA-074897
License Class/Type: C Restaurant
ANC: 3FO6

Applicant: Big Cheese, LLC
Trade Name: Comet Pizza
Premise Address: 5037 CONNECTICUT AVE NW

Endorsements: Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	10 am - 2 am	10 am -2 am	10 am - 12 am	10 am - 12 am	6 pm - 1:30 a.m.
MON:	10 am - 2 am	10 am - 2 am	10 am - 11 pm	10 am - 11 pm	6 pm - 1:30 a.m.
TUE:	10 am - 2 am	10 am - 2 am	10 am - 11 pm	10 am - 11 pm	6 pm - 1:30 a.m.
WED:	10 am - 2 am	10 am - 2 am	10 am - 11 pm	10 am - 11 pm	6 pm - 1:30 a.m.
THU:	10 am - 2 am	10 am - 2 am	10 am - 11 pm	10 am - 11 pm	6 pm - 1:30 a.m.
FRI:	10 am - 3 am	10 am - 3 am	10 am - 11 pm	10 am - 11 pm	6 pm - 2:30 am
SAT:	10 am - 3 am	10 am - 3 am	10 am - 12 am	10 am - 12 am	6 pm - 2:30 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-013995
License Class/Type: C Restaurant
ANC: 3G

Applicant: Parthenon Inc.
Trade Name: Parthenon Rest. & Chevy Chase Lounge
Premise Address: 5510 CONNECTICUT AVE NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11am - 2 am	11am -2 am	11:30 am - 2 am	11:30 am - 2 am	-
MON:	11am - 2 am	11am - 2 am	11:30 am - 2 am	11:30 am - 2 am	-
TUE:	11am - 2 am	11am - 2 am	11:30 am - 2 am	11:30 am - 2 am	-
WED:	11am - 2 am	11am - 2 am	11:30 am - 2 am	11:30 am - 2 am	-
THU:	11am - 2 am	11am - 2 am	11:30 am - 2 am	11:30 am - 2 am	-
FRI:	11 am - 3 am	11 am - 3 am	11:30 am - 3 am	11:30 am - 3 am	-
SAT:	11 am - 3 am	11 am - 3 am	11:30 am - 3 am	11:30 am - 3 am	-

License Number: ABRA-075536
License Class/Type: C Restaurant
ANC: 4C05

Applicant: Miriam's Cafe, LLC
Trade Name: Miriam's Cafeteria
Premise Address: 3931 14TH ST NW

Endorsements: Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 1 am	11 am -12:30 am	11 am - 1 am
MON:	11 am - 1 am	11 am - 12:30 am	11 am - 1 am
TUE:	11 am - 1 am	11 am - 12:30 am	11 am - 1 am
WED:	11 am - 1 am	11 am - 12:30 am	11 am - 1 am
THU:	11 am - 1 am	11 am - 12:30 am	11 am - 1 am
FRI:	11 am - 3 am	11 am - 2:30 am	11 am - 3 am
SAT:	11 am - 3 am	11 am - 2:30 am	11 am - 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
 PETITION DATE: 4/29/2013
 HEARING DATE: 5/13/2013

License Number: ABRA-060065
 License Class/Type: C Restaurant
 ANC: 5C

Applicant: India Palace, LLC
 Trade Name: Taj of India
 Premise Address: 2807 M ST NW

Endorsements: Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 11:30pm	-
MON:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 11:30pm	-
TUE:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 11:30pm	-
WED:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 11:30pm	-
THU:	11 am - 2 am	11 am - 2 am	11 am - 11 am	11 am - 11:30pm	-
FRI:	11 am - 3 am	11 am - 3 am	11 am - 11 am	11 am - 12:00am	-
SAT:	11 am - 3 am	11 am - 3 am	11 am - 11 am	11 am - 12:00am	-

License Number: ABRA-085382
 License Class/Type: C Restaurant
 ANC: 6A

Applicant: Black's 14th Street, NW, LLC
 Trade Name: Pearl Dive Oyster Palace/BlackJack
 Premise Address: 1612 14TH ST NW

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	8 am - 1 am	10 am - 1 am	8 am - 10 pm	10 am - 10 pm	-
MON:	8 am - 1 am	8 am - 1 am	8 am - 11 pm	8 am - 11 pm	-
TUE:	8 am - 1 am	8 am - 1 am	8 am - 11 pm	8 am - 11 pm	-
WED:	8 am - 1 am	8 am - 1 am	8 am - 11 pm	8 am - 11 pm	-
THU:	8 am - 1 am	8 am - 1 am	8 am - 11 pm	8 am - 11 pm	-
FRI:	8 am - 2 am	8 am - 2 am	8 am - 12 am	8 am - 12 am	-
SAT:	8 am - 2 am	8 am - 2 am	8 am - 12 am	8 am - 12 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-085922
License Class/Type: C Restaurant
ANC: 6B

Applicant: Clover Capitol Hill, LLC
Trade Name: Tortilla Coast
Premise Address: 400 1ST ST SE

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11:30 am - 12 am	11:30 am -12 am	11:30 am - 12 am	11:30 am - 12 am	-
MON:	11:30 am - 12 am	11:30 am - 12 am	11:30 am - 12 am	11:30 am - 12 am	-
TUE:	11:30 am - 12 am	11:30 am - 12 am	11:30 am - 12 am	11:30 am - 12 am	-
WED:	11:30 am - 12 am	11:30 am - 12 am	11:30 am - 12 am	11:30 am - 12 am	-
THU:	11:30 am - 12 am	11:30 am - 12 am	11:30 am - 12 am	11:30 am - 12 am	-
FRI:	11:30 am - 2:30 am	11:30 am - 2:30 am	11:30 am - 2:30 am	11:30 am - 2:30 am	-
SAT:	11:30 am - 2:30 am	11:30 am - 2:30 am	11:30 am - 2:30 am	11:30 am - 2:30 am	-

License Number: ABRA-080056
License Class/Type: C Restaurant
ANC: 6B

Applicant: Acqua 2 Limited Partnership I
Trade Name: Acqua al 2/Suna/Harold Black Bar
Premise Address: 212 7TH ST SE

Endorsements: Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	10 am - 2 am	10 am -2 am	10 am - 1 am	10 am - 1 am	-
MON:	10 am - 2 am	10 am - 2 am	10 am - 1 am	10 am - 1 am	-
TUE:	10 am - 2 am	10 am - 2 am	10 am - 1 am	10 am - 1 am	-
WED:	10 am - 2 am	10 am - 2 am	10 am - 1 am	10 am - 1 am	-
THU:	10 am - 2 am	10 am - 2 am	10 am - 1 am	10 am - 1 am	-
FRI:	10 am - 3 am	10 am - 3 am	10 am - 1 am	10 am - 1 am	-
SAT:	10 am - 3 am	10 am - 3 am	10 am - 1 am	10 am - 1 am	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-088497
License Class/Type: C Restaurant
ANC: 6B

Applicant: Hong Fu Corporation
Trade Name: Young Chow Asian Restaurant
Premise Address: 312 PENNSYLVANIA AVE SE

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 10:30 pm	11 am -10:30 pm	-
MON:	11 am - 10:30 pm	11 am - 10:30 pm	-
TUE:	11 am - 10:30 pm	11 am - 10:30 pm	-
WED:	11 am - 10:30 pm	11 am - 10:30 pm	-
THU:	11 am - 10:30 pm	11 am - 10:30 pm	-
FRI:	11 am - 11 pm	11 am - 11 pm	-
SAT:	11 am - 11 pm	11 am - 11 pm	-

License Number: ABRA-025153
License Class/Type: C Restaurant
ANC: 6B

Applicant: Al-Hamd Incorporated
Trade Name: Aatish On The Hill
Premise Address: 609 PENNSYLVANIA AVE SE

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11 am - 11 pm	11 am -11 pm	-
MON:	11 am - 11 pm	11 am - 11 pm	-
TUE:	11 am - 11 pm	11 am - 11 pm	-
WED:	11 am - 11 pm	11 am - 11 pm	-
THU:	11 am - 11 pm	11 am - 11 pm	-
FRI:	11 am - 11 pm	11 am - 11 pm	-
SAT:	11 am - 11 pm	11 am - 11 pm	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

**POSTING DATE: 3/15/2013
 PETITION DATE: 4/29/2013
 HEARING DATE: 5/13/2013**

**License Number: ABRA-071593
 License Class/Type: C Restaurant
 ANC: 6C**

**Applicant: Arias, Inc.
 Trade Name: My Brother's Place
 Premise Address: 237 2ND ST NW**

Endorsements: Dancing, Entertainment, Sidewalk Cafe

Days	Hours of Operation	Hours of Sales/Service	Hours of Sidewalk Cafe Operation	Hours of Sales Sidewalk Cafe	Hours of Entertainment
SUN:	11 am - 9 pm	11 am -9 pm	11 am - 9 pm	11 am - 9 pm	6 pm - 9 pm
MON:	11 am - 12 am	11 am - 12 am	11 am - 12 am	11 am - 12 am	6 pm - 12 am
TUE:	11 am - 12 am	11 am - 12 am	11 am - 12 am	11 am - 12 am	6 pm - 12 am
WED:	11 am - 12 am	11 am - 12 am	11 am - 12 am	11 am - 12 am	6 pm - 12 am
THU:	11 am - 1:30 am	11 am - 1:30 am	11 am - 1:30 am	11 am - 1:30 am	6 pm - 1:30 am
FRI:	11 am - 2:30 am	11 am - 2:30 am	11 am - 2:30 am	11 am - 2:30 am	6 pm - 2:30 pm
SAT:	11 am - 2:30 am	11 am - 2:30 am	11 am - 2:30 am	11 am - 2:30 am	6 pm - 2:30 pm

**License Number: ABRA-088224
 License Class/Type: C Restaurant
 ANC: 6C**

**Applicant: Hikari Corporation
 Trade Name: Hikari Sushi & Sake Bar
 Premise Address: 644 H ST NE**

Endorsements: Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Summer Garden Operation	Hours of Sales Summer Garden	Hours of Entertainment
SUN:	10am - 2am	10am -1am	10am - 10am	10am - 10 pm	-
MON:	10am - 2am	10am - 1am	10am - 10am	10am - 10 pm	-
TUE:	10am - 2am	10am - 1am	10am - 10am	10am - 10 pm	-
WED:	10am - 2am	10am - 1am	10am - 10am	10am - 10 pm	-
THU:	10am - 2am	10am - 1am	10am - 10am	10am - 10 pm	-
FRI:	10am - 2am	10am - 2am	10am - 10am	10am - 10 pm	-
SAT:	10am - 2am	10am - 2am	10am - 10am	10am - 10 pm	-

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

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RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-025040
License Class/Type: C Restaurant
ANC: 6C05

Applicant: Panda Rice Bowl, Inc.
Trade Name: East St Cafe
Premise Address: 50 MASSACHUSETTS AVE NE K

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	12 pm - 6 pm	12 pm - 6 pm	-
MON:	10 am - 9 pm	10 am - 9 pm	-
TUE:	10 am - 9 pm	10 am - 9 pm	-
WED:	10 am - 9 pm	10 am - 9 pm	-
THU:	10 am - 9 pm	10 am - 9 pm	-
FRI:	10 am - 9 pm	10 am - 9 pm	-
SAT:	10 am - 9 pm	10 am - 9 pm	-

License Number: ABRA-021207
License Class/Type: C Restaurant
ANC: 6C05

Applicant: Finally Free, Inc.
Trade Name: B Smith's
Premise Address: 50 MASSACHUSETTS AVE NE M

Endorsements: Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	11:30 am - 12 am	11:30 am - 12 am	12 pm - 12 am
MON:	11:30 am - 12 am	11:30 am - 12 am	12 pm - 12 am
TUE:	11:30 am - 12 am	11:30 am - 12 am	12 pm - 12 am
WED:	11:30 am - 12 am	11:30 am - 12 am	12 pm - 12 am
THU:	11:30 am - 12 am	11:30 am - 12 am	12 pm - 12 am
FRI:	11:30 am - 12 am	11:30 am - 12 am	12 pm - 12 am
SAT:	11:30 am - 12 am	11:30 am - 12 am	12 pm - 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC NOTICE

Persons objecting to the approval of a renewal application are entitled to be heard before the granting of such license on the hearing date at 10:00 am, 2000 14th Street, NW, 4th Floor, Washington, DC 20009.

RENEWAL NOTICES

POSTING DATE: 3/15/2013
PETITION DATE: 4/29/2013
HEARING DATE: 5/13/2013

License Number: ABRA-000892
License Class/Type: C Club
ANC: 6C08

Applicant: The 116 Inc.
Trade Name: 116 Club
Premise Address: 234 3RD ST NE

#52074207

Endorsements:

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	closed -	closed -	-
MON:	11 am - 11 pm	11 am - 11 pm	-
TUE:	11 am - 11 pm	11 am - 11 pm	-
WED:	11 am - 11 pm	11 am - 11 pm	-
THU:	11 am - 11 pm	11 am - 11 pm	-
FRI:	11 am - 11 pm	11 am - 11 pm	-
SAT:	closed -	closed -	-

License Number: ABRA-071114
License Class/Type: C Restaurant
ANC: 6D

Applicant: H & J Oriental Corporation
Trade Name: Jenny's
Premise Address: 1000 WATER ST SW

Endorsements: Dancing, Entertainment

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
SUN:	12 pm - 2 am	12 pm - 2 am	9 pm - 12 am
MON:	11 am - 2 am	11 am - 2 am	9 pm - 12 am
TUE:	11 am - 2 am	11 am - 2 am	9 pm - 12 am
WED:	11 am - 2 am	11 am - 2 am	9 pm - 12 am
THU:	11 am - 2 am	11 am - 2 am	9 pm - 12 am
FRI:	11 am - 3 am	11 am - 3 am	9 pm - 12 am
SAT:	11 am - 3 am	11 am - 3 am	9 pm - 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: March 15, 2013
Petition Date: April 29, 2013
Roll Call Hearing Date: May 13, 2013

License No.: ABRA-088409
Licensee: Made In Mad Momos, LLC
Trade Name: Mad Momos
License Class: Retailer's Class "C" Restaurant
Address: 3605 14th Street, NW.
Contact: Wanchuk Topden/Sam Huang: 202-829-1450

WARD 1 ANC 1A SMD 1A04

Notice is hereby given that this licensee has applied for a substantial change to its License under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such change on the hearing date at 10:00 am, 2000 14th Street, NW, 4th Floor, Washington, D.C. 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date.

LICENSEE REQUESTING TO ADD ENTERTAINMENT, COVER CHARGE AND DANCING TO THE LICENSE

HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday: 6pm - 1am; Friday and Saturday: 6pm - 2am

CURRENT APPROVED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES AND CONSUMPTION

Sunday: 8am - 2am; Monday through Thursday: 11am - 2am; Friday: 11am - 3am; Saturday: 8 am - 3am

CURRENT APPROVED SUMMER GARDEN HOURS OF OPERATION AND SALES AND CONSUMPTION

Per Settlement Agreement hours for sales and consumption end at 11pm Sunday - Thursday and 12am Friday and Saturday.

RE-ADVERTISE

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: March 15, 2013
 Petition Date: April 29, 2013
 Roll Call Hearing Date: May 13, 2013
 Protest Hearing Date: July 03, 2013

License No.: ABRA-091178
 Licensee: Ruby Tuesday, Inc.
 Trade Name: Lime Fresh Mexican Grill # 6347
 License Class: Retailer's Class "C" Tavern
 Address: 726 7th Street NW
 Contact: Jonathan Farmer 202-744-9796

WARD 2 ANC 2C SMD 2C03

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 4:00 pm on July 3, 2013.

NATURE OF OPERATION

A new full service restaurant, serving healthy Mexican cuisine and beverages. Total Occupancy Load is 66; number of seats inside is 58.

HOURS OF OPERATION/SALES/SERVICE & CONSUMPTION OF ALCOHOLIC BEVERAGES

Sunday through Thursday 11 am to 11 pm; Friday & Saturday 11 am to 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: March 15, 2013
Petition Date: April 29, 2013
Roll Call Hearing Date: May 13, 2013
Protest Hearing Date: July 3, 2013

License No.: ABRA-091395
Licensee: Sticky Fingers Sweets & Eats, Inc.
Trade Name: Sticky Fingers Sweets & Eats
License Class: Retailer's Class "C" Restaurant
Address: 1370 Park Road, NW
Contact: Doron Peterson: 202-299-9700

WARD 1 ANC 1A SMD 1A06

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the roll call hearing date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for July, 3 2013 at 1:30 pm.

NATURE OF OPERATION

New Restaurant, Neighborhood Bakery/Café. Total Load: 144; Seats Inside: 12
Summer Garden Seats: 32.

HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday: 9am - 8pm; Monday through Thursday: 7am - 8pm; Friday: 7am - 10pm;
Saturday: 9am - 10 pm

HOURS OF SUMMER GARDEN OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday: 9am - 8pm; Monday through Thursday: 7am - 8pm; Friday: 7am - 10pm;
Saturday: 9am - 10 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: March 15, 2013
Petition Date: April 29, 2013
Hearing Date: May 13, 2013

License No.: ABRA-087730
Licensee: Tortino Restaurant, Inc.
Trade Name: Tortino Restaurant
License Class: Retailer's Class "C" Restaurant
Address: 1228 11th Street, NW
Contact: Ana De Le'on, Agent 202-246-7601

WARD 2 ANC 2F SMD 2F05/2F07

Notice is hereby given that this applicant has applied for a substantial change to its license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the petition date.

NATURE OF SUBSTANTIAL CHANGE

Request for Sidewalk Café with 14 seats and Change of Hours for Premise

CURRENT HOURS OF OPERATION AND HOURS OF SALES/SERVICE/CONSUMPTION FOR PREMISES

Sunday through Thursday 11:00am – 2:00am, Friday and Saturday 11:00am – 3am.

CURRENT ENTERTAINMENT HOURS

Sunday through Thursday 8:00pm – 2:00am, Friday and Saturday 8:00pm – 3:00am.

PROPOSED HOURS OF OPERATION FOR PREMISE

Sunday through Thursday 8:00am – 2:00am, Friday and Saturday 8:00am – 3:00am

PROPOSED HOURS OF ALCOHOL SALES/SERVICE/CONSUMPTION FOR PREMISE

Sunday through Thursday 10:00am – 2:00am, Friday and Saturday 10:00am – 3:00am

PROPOSED HOURS OF OPERATION AND SALES/SERVICE/CONSUMPTION FOR SIDEWALK CAFÉ

Monday through Thursday 10:30am – 11:00pm, Friday 10:30am – 12:00am, Saturday and Sunday 11:00am – 12:00am

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
TUESDAY, MAY 21, 2013
441 4TH STREET, N.W.
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH
WASHINGTON, D.C. 20001**

TO CONSIDER THE FOLLOWING: The Board of Zoning Adjustment will adhere to the following schedule, but reserves the right to hear items on the agenda out of turn.

9:30 A.M. MORNING HEARING SESSION

A.M.

WARD EIGHT

18554 **Application of Catherine L. Bennett** , pursuant to 11 DCMR § 3104.1,
ANC-8B for a special exception for a rear deck addition to a one-family semi-
detached dwelling under section 223, not meeting the lot occupancy
requirements (section 403), and rear yard requirements (section 404) in the
R-3 District at premises 2456 Skyland Place, S.E. (Square 5740, Lot 244).

WARD THREE

18551 **Application of Broad Branch Children’s House**, pursuant to 11 DCMR
ANC-3G § 3104.1, for a special exception to continue a child development center
(80 children, 12 staff) under section 205, in the R-1-B District at premises
5608 Broad Branch Road, N.W. (Square 1997, Lot 78).

WARD THREE

18553 **Application of Hashim Hassan**, pursuant to 11 DCMR § 3104.1, for a
ANC-3D special exception to allow the construction of a four unit apartment
building under section 353, in the R-5-A District at premises 4529
MacArthur Boulevard, N.W. (Square 1363, Lot 954).

WARD SIX

**THIS APPLICATION WAS POSTPONED FROM THE MARCH 12, 2013,
PUBLIC HEARING SESSION:**

BZA PUBLIC HEARING NOTICE

MAY 21, 2013

PAGE NO. 2

18514 **Application of Andrew Daly and Patty Jordan**, pursuant to 11 DCMR
 ANC-6A §§ 3104.1 and 3103.2, for a special exception under section 223, not
 meeting the lot occupancy requirements (section 403), a variance from the
 parking space dimensions requirement under subsection 2115.1, and a
 variance from the garage setback requirement under subsection 2300.2(b),
 to allow a detached garage addition serving a one-family dwelling in the
 R-4 District at premises 1120 Park Street, N.E. (Square 987, Lot 8).

WARD ONE

**THIS APPLICATION WAS POSTPONED FROM THE JANUARY 8, 2013, AND
MARCH 12, 2013, PUBLIC HEARING SESSIONS:**

18409 **Application of CAS Riegler Companies**, pursuant to 11 DCMR §
 ANC-1A 3103.2, for a variance from the off-street parking requirements under
 subsection 2101.1, for the conversion of an existing flat into an apartment
 housing containing five units in the R-4 District at premises 1300 Park
 Road, N.W. (Square 2843, Lot 824).

WARD EIGHT

**THIS APPLICATION WAS POSTPONED FROM THE APRIL 23, 2013, PUBLIC
HEARING SESSION:**

18541 **Application of Lubertha Payne**, pursuant to 11 DCMR § 3104.1, for a
 ANC-8B special exception for a child development center (11 children and 2 staff)
 under section 205, in the R-3 District at premises 620 Southern Avenue,
 S.E. (Square 6250, Lot 11).

PLEASE NOTE:

Failure of an applicant or appellant to appear at the public hearing will subject the application or appeal to dismissal at the discretion of the Board.

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Chapter 31 of the District of Columbia Municipal Regulations, Title 11, and Zoning. Pursuant to Subsection 3117.4, of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

BZA PUBLIC HEARING NOTICE

MAY 21, 2013

PAGE NO. 3

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form.** This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning's website at: www.dcoz.dc.gov. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

FOR FURTHER INFORMATION, CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

**LLOYD J. JORDAN, CHAIRMAN
NICOLE C. SORG, VICE CHAIRPERSON
JEFFREY L. HINKLE, S. KATHRYN ALLEN
AND A MEMBER OF THE ZONING COMMISSION
BOARD OF ZONING ADJUSTMENT
CLIFFORD W. MOY, SECRETARY TO THE BZA
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING**

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF RESCHEDULED¹ PUBLIC HEARING**

TIME AND PLACE: Monday, May 6, 2013, 6:30 P.M.
Office of Zoning Hearing Room
441 4th Street, N.W., Suite 220-South
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 09-03A (Skyland Holdings, LLC) – Modification of an Approved Planned Unit Development (“PUD”) for Parcels 13/52, 213/60, 213/61, 214/62, 214/88, 214/104, 214/182, 214/187, 214/189, 214/190, and 214/196; Square 5632 Lots 1, 3-5 and 802; Square 5633 Lots 800 and 801; Square 5641 Lots 10-13, and 819; Square 5641-N Lots 12-31, and 33 (the “Property”))

THIS CASE IS OF INTEREST TO ANC 7B and ANC 8B

On November 9, 2012, the Office of Zoning received an application from Skyland Holdings, LLC (the “Applicant”) requesting the modification of the PUD project approved in Zoning Commission Case No. 09-03 (ZC Case No. 09-03A) and a request to extend the time in which the first building permit application must be filed for the project (ZC Case No. 09-03B). The Office of Planning provided its report on November 30, 2012, and the application was set down for hearing on December 10, 2012. At the same time, the Commission voted to hold the time extension request in abeyance until it considers final action on the modification. The Applicant provided its prehearing statement on January 15, 2013.

The modified PUD project includes the following proposed changes:

PROPOSED CHANGES TO BLOCK 1

- Elimination of the underground parking garage, thereby reducing the number of parking spaces by approximately 220 spaces, and modifications to the roof level parking treatment.
- Refinement to the architectural details of the building and reduction in the height of the previously approved architectural embellishment at the corner of Main Street and Naylor Road.
- Refinement to the retaining walls on the northern and eastern edges of the building and the proposed green screen shading system.
- Refinement of parking ramps and walls.

PROPOSED CHANGES TO BUILDINGS IN BLOCK 2

- Reconfiguration of the buildings to create residential units to meet the expected market demand, while maintaining the ground floor retail uses. Retention of an

¹ This case was originally scheduled for March 28, 2013.

Z.C. PUBLIC HEARING NOTICE
Z.C. CASE NO. 09-03A
PAGE 2

- internal above-grade parking garage which will provide retail parking for Blocks 2, 3, and 4 as well as residential parking spaces for the residents of Block 2.
- Creation of a new covered private alley system which will provide through travel lanes from Naylor/Good Hope Roads to the internal Main Street.
 - Removal of the vehicular slip lane along Naylor/Good Hope Roads which provided vehicular access into the project.
 - Improvement of pedestrian access to the site.
 - Addition of a green roof, photovoltaic panels and outdoor amenity space on the roof of the building.
 - Refinements to the loading and trash area.
 - Elimination of a paseo.

PROPOSED CHANGES TO BLOCK 3

- Increased depth of the retail space and residential building along Alabama Avenue.
- Replacement of seven townhouse units with six carriage house units.
- Elimination of structured parking, with the relocation of the retail parking for Block 3 to the central parking garage in Block 2

PROPOSED CHANGES TO BLOCK 4

- Elimination of the structured parking garage, with the relocation of the retail parking for Block 4 to the central parking garage in Block 2.

PROPOSED CHANGES TO BLOCK 5

- Re-alignment of the intersection of the private residential street and Alabama Avenue.
- Removal of the RCN switching equipment building.
- Removal of five townhouses, which results in an increased green buffer along the northern edge of Residential Street

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Regulations, 11 DCMR § 3022.

How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

Z.C. PUBLIC HEARING NOTICE
Z.C. CASE NO. 09-03A
PAGE 3

How to participate as a party.

Any person who desires to participate as a party in this case must so request and must comply with the provisions of 11 DCMR § 3022.3.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Regulations. If you are still unsure of what it means to participate as a party and would like more information on this, please contact the Office of Zoning at dcoz@dc.gov or at (202) 727-6311.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person’s interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Persons seeking party status **shall file with the Commission, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application, a copy of which may be downloaded from the Office of Zoning’s website at: <http://dcoz.dc.gov/services/app.shtm>.** This form may also be obtained from the Office of Zoning at the address stated below.

To the extent that the information is not contained in the Applicant's prehearing submission as required by 11 DCMR § 3013.1, the Applicant shall also provide this information not less than 14 days prior to the date set for the hearing.

If an affected Advisory Neighborhood Commission (ANC) intends to participate at the hearing, the ANC shall submit the written report described in § 3012.5 no later than seven (7) days before the date of the hearing. The report shall contain the information indicated in § 3012.5 (a) through (i).

Time limits.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

- | | | |
|----|----------------------------------|-------------------------|
| 1. | Applicant and parties in support | 60 minutes collectively |
| 2. | Parties in opposition | 60 minutes collectively |
| 3. | Organizations | 5 minutes each |
| 4. | Individuals | 3 minutes each |

Pursuant to § 3020.3, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

**Z.C. PUBLIC HEARING NOTICE
Z.C. CASE NO. 09-03A
PAGE 4**

Information responsive to this notice should be forwarded to the Director, Office of Zoning, Suite 200-S, 441 4th Street, N.W., Washington, D.C. 20001. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT E. MILLER, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

NOTICE OF FINAL RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in D.C. Official Code § 25-211(b)(2012 Supp.), hereby gives notice of the adoption of final rules to amend existing Subsection 718.2 of Chapter 7 (General Operating Requirements) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR), by increasing the time period covered by the Reimbursable Detail Subsidy Program (Program) from 11:30 p.m. to 5:00 a.m. The rules would also allow reimbursement under the Program for hours worked on District or Federal holidays in addition to those hours worked by Metropolitan Police Department (MPD) officers on Friday and Saturday nights.

The Fiscal Year 2011 Revised Budget Request Act of 2010, signed by the Mayor on December 17, 2010 (D.C. Act 18-657; 58 DCR 32 (January 7, 2011)) reduced funding for the Program by five hundred thousand dollars (\$500,000) in Fiscal Year 2011. On January 5, 2011, the Board put emergency and proposed rules in place to lengthen the amount of time that funding remained available in the Program for Fiscal Year 2011. This rulemaking included a reduction in the percentage distribution of subsidies paid by the Alcoholic Beverage Regulation Administration (ABRA) to MPD from fifty percent (50%) to twenty-five percent (25%) for MPD officers working reimbursable details under the Program.

On March 2, 2011, the Board suspended funding for the Program on an emergency basis, effective April 1, 2011, to preserve the remaining funds left in the Program for use later in Fiscal Year 2011 during the busier summer months. The March 2, 2011 emergency rulemaking also indicated that the Board would revisit the status of funding for the Program at its June 1, 2011, legislative meeting. Given the importance of this Program to public safety, the Board voted on June 1, 2011, to increase the percentage distribution of subsidies paid by ABRA to MPD from zero percent (0%) to twenty-five percent (25%) when covering the costs incurred by Alcoholic Beverage Control (ABC) licensees for MPD officers working reimbursable details under the Program. The percentage distribution change under the Program to twenty-five percent (25%) took effect on July 1, 2011. On October 5, 2011 the Board decided to reconsider the existing percentage distribution because additional funds are currently available in ABRA's Fiscal Year 2012 budget to reinstate the percentage distribution of subsidies paid by ABRA to MPD under the Program from twenty-five percent (25%) back to fifty (50%) percent.

On September 19, 2012, the Board permitted reimbursement under the Program for hours worked on District or Federal holidays in addition to Friday and Saturday nights as part of the Board's implementation of the Fiscal Year 2013 Budget Support Act of 2012, which allows eligible on-premise licensees to sell and serve alcoholic beverages until 4:00 a.m. and operate 24 hours a day on District or Federal holidays and certain holiday

weekends. As a result of this additional hour of alcohol sales on District or Federal holidays and certain holiday weekends, the Board has also decided to make the Subsidy available to on-premise licensees until 5:00 a.m.

Pursuant to D.C. Official Code § 25-211(b)(2) (2012 Supp.), the proposed rules were transmitted to the Council of the District of Columbia (Council), for a ninety (90) day period of Council review on September 17, 2012. The rules were approved by Council Resolution R20-0029, the “Reimbursable Details Subsidy Program Resolution of 2012”, adopted by the Council at its February 5, 2013, legislative meeting. These final rules were adopted by the Board on February 27, 2013, on a vote of four (4) to zero (0) and they will become effective five (5) days after publication in the *D.C. Register*.

Section 718, REIMBURSABLE DETAIL SUBSIDY PROGRAM, of Chapter 7, GENERAL OPERATING REQUIREMENTS, of Title 23, ALCOHOLIC BEVERAGES, of the DCMR is amended by replacing Subsection 718.2 to read as follows:

718.2 ABRA will reimburse MPD fifty percent (50%) of the total cost of invoices submitted by MPD to cover the costs incurred by licensees for MPD officers working reimbursable details on Friday and Saturday nights and District or federal Holidays. The hours eligible for reimbursement on Friday and Saturday nights shall be 11:30 p.m. to 5:00 a.m. MPD shall submit to ABRA on a monthly basis invoices documenting the fifty percent (50%) amount owed by each licensee. Invoices will be paid by ABRA to MPD within thirty (30) days of receipt in the order that they are received until the subsidy program’s funds are depleted.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Interim Director of the Department of Health, pursuant to the authority set forth in Section 4 of the District of Columbia Newborn Screening Requirement Act of 1979, effective April 29, 1980 (D.C. Law 3-65; D.C. Official Code § 7-833 (2008 Repl.)), and Mayor's Order 2004-172, dated October 20, 2004, hereby gives notice of final rulemaking action to adopt the following amendments to Chapter 21 (Neonatal Screening Services) of Title 22-B (Public Health and Medicine) of the District of Columbia Municipal Regulations (DCMR). The Interim Director took final rulemaking action on January 24, 2013. A Notice of Proposed Rulemaking was published December 14, 2012, at 59 DCR 14826. No comments were received in connection with the proposed rule, and no changes have been made since publication of the proposed rule. These rules will become effective upon publication of this notice in the *D.C. Register*.

The final rule amends Section B-2101.1 to add a metabolic disorder to the panel of tests that hospitals and birthing centers must make available to parents of newborns, and amends Section 2199 to add a definition for a metabolic disorder.

Title 22-B (Public Health and Medicine) of the DCMR is amended as follows:**Section 2101.1 of Chapter 21 (Neonatal Screening Services) is amended by adding a new subsection (oo) and amending subsections (mm) and (nn) to read as follows:**

- (mm) Tyrosinemia type I (TYR I);
- (nn) Very long-chain acyl-CoA dehydrogenase deficiency (VLCAD); and
- (oo) Severe Combined Immunodeficiency (SCID).

Section 2199.1 is amended by adding the following term with the ascribed meaning as follows:

Severe Combined Immunodeficiency (SCID) -- a primary immunodeficiency disease that affects infants lacking T lymphocytes, the white blood cells that help resist infections. Babies with this disease are born healthy and identified only after they begin to suffer from severe infections. SCID affects a minimum of one in 100,000 newborns.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 4902 of the Department of Health Functions Clarification Act of 2001 (Act), effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731(a)(8) (2008 Repl.; 2012 Supp.)) and Mayor’s Order 2007-63, dated March 8, 2007, hereby gives notice of the adoption of a new Subtitle F, Title 25 of the District of Columbia Municipal Regulations (DCMR).

The Department of Health received one (1) comment to a previous notice of proposed rulemaking, which was addressed in the Fourth Notice of Proposed Rulemaking published in the *D.C. Register* on January 25, 2013 at 60 DCR 000849. No substantive changes were made to this Notice of Final Rulemaking. These rules will take effect immediately upon publication of this notice in the *D.C. Register*.

Subtitle F of Title 25 of the DCMR is added to read as follows:

SUBTITLE F TANNING FACILITY REGULATIONS

- 100 Title – Tanning Facility Regulations
- 101 Intent – Safety
- 102 Compliance with Federal and District Laws
- 200 Licensees Responsibilities – Manager and Operator Certifications, and District-Issued ID Requirements, Basic Knowledge, Assignment & Posting*
- 201 Licensees Responsibilities – Safety Requirements and Tanning Procedures & Temperature*
- 300 Policy & Procedures – Age Restrictions and Prohibitions, and Parental/ Legal Guardian Authorization*
- 301 Policy & Procedures – Age Restriction Sign and Posting*
- 302 Policy & Procedures – Warning Statement, Content and Posting*
- 303 Operating Procedures – Recordkeeping Manual, Content*
- 304 Operating Procedures – Recordkeeping, Purchase, Maintenance, and Users’ Instructions
- 305 Operating Procedures – Recordkeeping, Retention
- 306 Operating Procedures – Recordkeeping, Reports of Injuries
- 400 Design & Construction – Tanning Equipment and Devices*
- 401 Design & Construction – Tanning Equipment and Devices, Protective Eyewear
- 402 Design & Construction – Tanning Equipment and Devices, Timer
- 403 Design & Construction – Tanning Stand-up Booths, Cabinets and Vertical Tanning Devices – Additional Requirements and Temperatures*
- 404 Design & Construction – Tanning Equipment and Devices, Supplies, Installation and Use*
- 405 Design & Construction – Tanning Equipment Devices, Supplies, and Bulbs, Shielding*

- 406 Design & Construction — Tanning Equipment and Devices, and Supplies, Replacement, Ultraviolet Lamps, Bulbs or Filters, Compatibility*
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CHAPTER 1 TITLE, INTENT, SCOPE

100 TITLE — TANNING FACILITY REGULATIONS

100.1 These provisions shall be known as the Tanning Facility Regulations hereinafter referred to as “these regulations.”

101 INTENT — SAFETY

101.1 The purpose of these regulations is to protect the public health and safety by preventing and controlling the spread of communicable diseases; protecting the environment by promoting and regulating the safety and sanitary conditions of tanning facilities; and ensuring the safety and proper installation and servicing of equipment which uses ultraviolet radiation to artificially tan human skin.

101.2 These regulations:

- (a) Minimize the risks associated with tanning using ultraviolet radiation by prescribing minimum standards for the design, construction, operation, and maintenance of tanning facilities;
- (b) Set standards for maintenance and replacement of equipment;
- (c) Set standards for personnel and sanitary operations;
- (d) Establish recordkeeping and reporting requirements;
- (e) Establish prohibited conduct within tanning facilities;
- (f) Establish operational standards;
- (g) Provide for the issuance of licenses; and
- (h) Provide for enforcement through inspections, suspension and revocation of licenses, and the issuance of fines and penalties; and

(i) Establish definitions for this subtitle.

101.3 These regulations do not apply to medical facilities' phototherapy devices that are used by or under the supervision of licensed physicians or health care professionals who are trained in the use of such phototherapy devices in which patients are intentionally exposed to ultraviolet radiation for the treatment of diseases.

101.4 Certain provisions of these regulations are identified as critical. Critical provisions are those provisions where noncompliance may result in injuries, spread of communicable diseases, or environmental health hazards. A critical item is denoted with an asterisk (*).

101.5 Certain provisions of these regulations are identified as noncritical. Noncritical provisions are those provisions where noncompliance is less likely to spread communicable diseases or create environmental health hazards. A section that is denoted in these regulations without an asterisk (*) after the head note is a noncritical item. However, a critical item may have a provision within it that is designated as a noncritical item with a superscripted letter "N" following the provision.

102 COMPLIANCE WITH FEDERAL AND DISTRICT LAWS

102.1 The Department shall use these regulations to promote the safeguarding of public health and ensure tanning facilities are safe and in compliance with Federal and District laws and regulations. The most current versions of the following District and Federal regulations are hereby incorporated by reference:

(a) The District of Columbia's Construction Codes of 2008, consisting of the following International Code Council (ICC):

(1) International Building Code (2006 edition);

(2) International Mechanical Code (2006 edition);

(3) International Plumbing Code (2006 edition);

(4) International Fire Code (2006 edition);

(5) International Existing Building Code (2006 edition); and

(6) The NFPA National Electrical Code (2005 edition);

(b) Title 12 (Construction Codes) of the District of Columbia Municipal Regulations;

(c) 21 C.F.R. § 1040.20 (Sunlamp products and ultraviolet lamps intended for use in sunlamp products);

(d) 21 C.F.R. § 1010.3 (Performance Standards for Electronic Products: General, Identification); and

- (e) 29 C.F.R. § 1910.1030 – Part 1910 (Occupational Safety and Health Standard, Subpart Z – Toxic and Hazardous Substances).

102.2 In enforcing the provisions of these regulations, the Department shall assess a tanning facility's physical structure, operating systems, and design; and operation and maintenance of facilities' tanning equipment and devices, furnishings, and other fixtures in use before the effective date of these regulations based on the following considerations:

- (a) Whether the facility's physical structure; operating systems, and design; and the facility's tanning equipment and devices, furnishings, and other fixtures are safe to operate, in good repair, and capable of being maintained in a sanitary condition; and
- (b) The existence of a documented agreement with the licensee that the facility's operating systems, or tanning equipment and devices, furnishings, and other fixtures will be replaced by an agreed upon date.

CHAPTER 2 SUPERVISION AND TRAINING

200 LICENSEE RESPONSIBILITIES – MANAGER AND OPERATOR, CERTIFICATION AND DISTRICT-ISSUED ID REQUIREMENTS, BASIC KNOWLEDGE, ASSIGNMENT, AND POSTING*

200.1 The licensee shall ensure that tanning facility managers and operators are trained as specified in Section 200.4.

200.2 The licensee shall ensure that a manager or operator is on duty and present at the tanning facility during all hours of operation.

200.3 The licensee shall ensure that new employees hired to work as operators work under the direct supervision of a trained operator until the new employee is trained as specified in Section 200.4.

200.4 Training shall cover FDA and District regulations, eye protection, equipment and maintenance, and the following information:

- (a) Requirements in this section and FDA requirements stated in 21 C.F.R. § 1040.20 (Sunlamp products and ultraviolet lamps intended for use in sunlamp products);
- (b) Proper use of FDA Recommended Exposure Schedule;
- (c) Proper procedures for sanitizing protective eyewear and tanning equipment;
- (d) Proper procedures for the use of and the instruction in use of protective eyewear;
- (e) Recognition of injury or overexposure to ultraviolet radiation;

- (f) The tanning equipment manufacturer's procedures for operation and maintenance of the tanning equipment or devices;
 - (g) Emergency procedures to be followed in case of an actual or alleged ultraviolet radiation injury;
 - (h) Biological effects of ultraviolet radiation, including the potential acute and long term health effects of ultraviolet radiation;
 - (i) Knowledge of potential photosensitizing agents, to include food, cosmetics and medications, and the possibility of photosensitivity and photoallergic reactions;
 - (j) The classification and determination of skin type of consumers, using the Fitzpatrick Scale;
 - (k) The human skin and the tanning process;
 - (l) Recordkeeping requirements as specified in §§ 303, 304, 305, and 306 of this subtitle;
 - (m) Determination of lamp equivalency;
 - (n) The types and wavelengths of ultraviolet light;
 - (o) General information and features of all types of commercial tanning equipment and devices; and
 - (p) The public health reasons for avoiding overexposure and the dangers of overexposure.
- 200.5 Documentation that managers and operators are trained as required in Section 200.4 shall be conspicuously posted in the tanning facility next to the tanning facility license. This documentation shall be removed when an individual is no longer employed on-site by the facility.
- 200.6 The licensee shall ensure managers obtain a required Department of Health (DOH)-Issued Tanning Facility Manager's Identification Card (ID Card).
- 201 LICENSEE RESPONSIBILITIES – SAFETY REQUIREMENTS AND TANNING PROCEDURES AND TEMPERATURE***
- 201.1 The licensee shall ensure managers and operators are knowledgeable in the correct use of all tanning devices on the premises so that they are able to inform and assist each customer in the proper use of the tanning devices.
- 201.2 Only one (1) customer may be in a tanning room at a time, with the following exceptions:

- (a) If two (2) or more sunlamp products are used in the same room, in which case only those customers using the sunlamp products may be present in the room; and
 - (b) If a customer using a sunlamp product needs aid or assistance from another person, in which case that individual shall also be provided with, and wear, protective eyewear.
- 201.3 The licensee shall ensure the interior temperature of the tanning facility is controlled so that it does not exceed one hundred degrees Fahrenheit (100 °F) (thirty-eight degrees Celsius (38 °C)) at any time.
- 201.4 The licensee shall ensure tanning equipment and devices are maintained in good condition and are sanitized after each use.
- 201.5 The licensee shall ensure all protective eyewear is in optimal condition, properly sanitized, and provides adequate vision in accordance with its design.
- 201.6 The licensee shall ensure each customer receives instructions on how to use suitable physical aids, such as handrails and markings on the floor, to maintain proper exposure distance as recommended by the manufacturer of the tanning equipment or devices.
- 201.7 The licensee shall ensure timers on ultraviolet tanning equipment or devices are accurate within plus or minus ten percent ($\pm 10\%$) of any selected time interval. The timer shall also be remotely located so that customers cannot set their own exposure time.
- 201.8 The licensee shall ensure each customer using ultraviolet tanning equipment or devices is limited to the maximum exposure time recommended by the manufacturer.
- 201.9 The licensee shall ensure during a customer's initial visit, and at least annually thereafter, that each customer is provided with a copy of the "Warning Statement" identified in Section 302.4.
- 201.10 The licensee shall ensure customers have reviewed, signed, and dated the required Acknowledgment; that they have read and understood the "Warning Statement" provided to them by the facility, as specified in Subsections 201.09, 300.1, and 302.4, before using the facility's tanning equipment or devices; and that they have agreed to use FDA compliant protective eyewear provided by the tanning facility or their own.
- 201.11 The licensee shall ensure that customers have submitted a signed and dated "Parental/Legal Guardian Authorization Form" provided to them by the facility before a minor's use of the facility's tanning equipment or devices as specified in Sections 300 and 301.
- 201.12 If the customer is illiterate, or visually impaired the licensee shall ensure that the "Warning Statement" and "Parental/Legal Guardian Authorization Form"

have been read to the customer prior to the customer's use or a customer's minor child's use of the facility's tanning equipment or devices.

CHAPTER 3 STANDARD POLICIES & OPERATING PROCEDURES AND RECORDKEEPING

300 POLICY & PROCEDURES – AGE RESTRICTIONS AND PROHIBITION, AND PARENTAL/LEGAL GUARDIAN AUTHORIZATION*

- 300.1 The licensee shall require every customer, including the parent or legal guardian of minors, who uses the facility's tanning equipment and devices to sign an acknowledgement that he or she has:
- (a) Received the required "Warning Statement" provided by the facility;
 - (b) Read and understood the required "Warning Statement" provided by the facility; and
 - (c) Agreed to use FDA compliant protective eyewear; and
 - (d) Consented to a minor's use of the facility's tanning equipment or devices by providing the facility with a properly completed "Parental/Legal Guardian Authorization Form", where applicable.
- 300.2 The general use of tanning equipment or devices shall be restricted to customers who are eighteen (18) years of age or older.
- 300.3 The licensee shall require a parent or legal guardian of a minor child to complete a "Parental/Legal Guardian Authorization Form" provided by the facility prior to the minor's use of the facility's tanning equipment or devices.
- 300.4 The licensee shall prohibit minors younger than fourteen (14) years of age from using ultraviolet tanning equipment or devices.
- 300.5 The licensee shall prohibit minors between fourteen (14) and seventeen (17) years of age from using ultraviolet tanning equipment or devices without a valid "Parental/Legal Guardian Authorization Form" on file. Proof of age shall be satisfied with a driver's license or other government issued identification containing the date of birth and a photograph of the individual, or school issued identifications.
- 300.6 For parents or legal guardians of minors who are sixteen (16) or seventeen (17) years of age, prior to the minors' use of a facility's tanning equipment or devices, the tanning facility shall:
- (a) Provide a copy of the "Warning Statement" identified in Section 302.4 to a parent or legal guardian; and
 - (b) Obtain a "Parental/Legal Guardian Authorization Form" from a parent or legal guardian that is signed and dated in the presence of the facility's

operator. The "Parental/Legal Guardian Form" shall not be given to a minor to take home for signing.

300.7 For parents or legal guardians of minors who are fourteen (14) or fifteen (15) years of age, prior to the minors' use of a facility's tanning equipment or devices, the tanning facility shall:

- (a) Provide a copy of the "Warning Statement" identified in Section 302.4 to the parent or legal guardian; and
- (b) Obtain a "Parental/Legal Guardian Authorization Form" from a parent or legal guardian that is signed and dated in the presence of the facility's operator. The "Parental/Legal Guardian Authorization Form" shall not be given to a minor to take home for signing; and
- (c) Require a parent or legal guardian to accompany the minor when using the facility's tanning equipment or devices.

300.8 The licensee shall not permit any infant or other minor in a tanning area where tanning equipment or devices are being used by a parent or legal guardian.

301 POLICY & PROCEDURES — AGE RESTRICTION SIGN AND POSTING*

301.1 A licensee shall conspicuously post an Age Restriction Sign at or near the reception area with the following text:

- (a) INDIVIDUALS AGE 14 TO 17 YEARS OF AGE ARE REQUIRED TO HAVE A PARENT OR LEGAL GUARDIAN SIGN A "WARNING STATEMENT" AND A "PARENTAL/LEGAL GUARDIAN AUTHORIZATION FORM" IN THE PRESENCE OF AN OPERATOR BEFORE USING THE FACILITY'S TANNING EQUIPMENT OR DEVICES;
- (b) INDIVIDUALS AGE 14 TO 15 YEARS OF AGE ARE ALSO REQUIRED TO HAVE A PARENT OR LEGAL GUARDIAN PRESENT DURING ALL TANNING SESSIONS; and
- (c) INDIVIDUALS AGE 13 YEARS OF AGE AND YOUNGER ARE PROHIBITED FROM USING ANY ULTRAVIOLET TANNING EQUIPMENT OR DEVICES.

302 POLICY & PROCEDURES — WARNING STATEMENT, CONTENT, AND POSTING*

302.1 During a customer's initial visit, an operator shall advise a consumer that tanning indoors and outdoors on the same day, or tanning at multiple salons or other similar occurrences is hazardous to his or her health.

- 302.2 Operators shall remind each customer to consult their physician if the customer is taking any medication, has skin problems, or is sensitive to sunlight, certain foods, or cosmetics.
- 302.3 The licensee shall conspicuously post a “Warning Sign” as specified in Section 302.4, in the reception area next to the tanning facility District-issued license as specified in Section 804.4. The sign shall be readily legible, clearly visible, and not obstructed by any item for easy viewing by customers.
- 302.4 The lettering on the warning sign shall be at least five millimeters (5 mm) high for the word “WARNING”. All capital letters shall be at least five millimeters (5 mm) high and all lower case letters shall be at least three millimeters (3 mm) high. The warning sign shall read as follows:

WARNING**DANGER – ULTRAVIOLET RADIATION**

Avoid too frequent or too lengthy exposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeat exposure can cause chronic sun damage, such as premature aging of the skin, which is characterized by wrinkling, dryness, fragility and bruising of the skin or skin cancer.

Wear Food and Drug Administration-Approved Protective Eyewear. Failure to wear protective eyewear may result in severe burns or long-term injury to the eyes.

Do not sunbathe before or after exposure to ultraviolet radiation. Ultraviolet radiation from tanning equipment or devices will aggravate the effects of the sun. So, do not sunbathe during the twenty-four (24) hours immediately before or immediately after using tanning equipment or devices.

Tanning indoors and outdoors on the same day, or tanning at multiple salons, or other similar occurrences is hazardous to your health.

Medications and cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using tanning equipment or devices if: (1) you are taking **any medication**; or (2) you have a history of skin problems, or believe that you are especially sensitive to sunlight, certain foods, or cosmetics.

Women who are pregnant or using birth control pills and who use tanning equipment or devices may develop discolored skin.

If you do not tan in the sun, you are unlikely to tan when exposed to a tanning device.

If you believe that you have been injured by this tanning device, you should contact: District of Columbia Department of Health, Radiation Protection Division, 899 North Capitol Street, N.E., 2nd Floor, Washington, D.C. 20002-4210, Telephone: (202) 724-8800.

303 OPERATING PROCEDURES – RECORDKEEPING MANUAL, CONTENT*

303.1 The licensee shall maintain a procedural manual at the tanning facility which shall be available at all times to operators and the Department during inspections. Each licensee's procedural manual shall maintain:

- (a) Statements for customers who are illiterate or visually impaired and unable to sign their names in accordance with Section 201.12;
- (b) Parental/Legal Guardian Authorization Forms;
- (c) Warning Statement; and
- (d) A record of each operator's completion of training requirements.

303.2 Each tanning facility shall maintain on file each customer's:

- (a) Statements signed by the tanning facility's staff for customers who are illiterate or visually impaired and unable to sign their names in accordance with Section 201.12, if applicable;
- (b) Parental/Legal Guardian Authorization Forms, if applicable;
- (c) Written tanning profiles and consultations;
- (d) Records of suitability for using tanning equipment; and
- (e) Records showing the a adherence to the manufacturer's recommended exposure schedule, or the procedures used for determining if a consumer has exceeded the exposure schedule as provided in Subsections 200.4(b) and 200.4(k), including:
 - (1) Determining exposure times;
 - (2) Frequency of visits;
 - (3) Spacing of visits; and
 - (4) Maximum exposure time(s) in minutes.

303.3 All records of customers' files shall be maintained for a minimum of three (3) years before or three (3) years past the client's age of majority.

303.4 Each tanning facility shall maintain:

- (a) Maintenance records which identify the manufacturer, model and series number, and the date each tanning equipment or device was sold, leased, transferred, loaned, assembled, certified, recertified, upgraded, installed, serviced, or repaired, including but not limited to records of the:
 - (1) Frequency and dates of cleaning and sanitizing tanning equipment, tanning devices, and protective eyewear;
 - (2) Replacement of tanning lamps;

- (3) Quarterly testing of tanning equipment timers and emergency off switches; and
 - (4) Calibration dates of tanning equipment and devices.
 - (b) A list of emergency contact numbers appropriate for the community in which it is located. The list shall be easily accessible and shall include, but is not limited to, contact numbers for:
 - (1) The nearest hospital;
 - (2) The nearest fire department; and
 - (3) Emergency 911 service.
- 303.5 All files identified in this section that are maintained electronically shall be frequently backed up and accessible from multiple locations, if applicable.
- 304 OPERATING PROCEDURES – RECORDKEEPING, PURCHASE, MAINTENANCE, AND USERS’ INSTRUCTIONS**
- 304.1 The licensee shall maintain the users’ instructions for each model of tanning equipment used at the tanning facility as stated in 21 C.F.R. § 1040.20(e)(1) (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, instructions to be provided to users).
- 304.2 Users’ instructions shall be kept on file at the facility and shall be readily available for review by the tanning facility staff, as needed, and the Department upon request.
- 304.3 The licensee shall keep records showing the receipt, transfer, repair, and disposal of all equipment and devices on the premises.
- 304.4 Records which are maintained by the licensee on computer systems shall be copied at least monthly and updated on storage media other than the hard drive of the computer to ensure compliance with these regulations.
- 304.5 An electronic record shall be retrievable as a printed copy.
- 305 OPERATING PROCEDURES – RECORDKEEPING, RETENTION**
- 305.1 The licensee shall maintain all records at the facility for at least three (3) years or longer if required by any other applicable District law or regulation. The records shall be readily available for review by the Department upon request.
- 306 OPERATING PROCEDURES – RECORDKEEPING, REPORTS OF INJURIES**
- 306.1 The licensee shall maintain an “Incident Log” of customers’ actual or alleged ultraviolet radiation injuries or other types of injuries.

- 306.2 The licensee shall submit to the Department a written report of actual or alleged injury from using the licensee's tanning equipment or devices no later than five (5) business days after notification of actual or alleged injury.
- 306.3 The report shall include the following information:
- (a) Name, address, and telephone number of the affected individual;
 - (b) Tanning facility's name, location, telephone number, license number, and name of the operator on duty;
 - (c) Identification of the specific tanning equipment or devices involved;
 - (d) Nature of the actual or alleged injury, including the date and duration of exposure, and any other information relevant to the actual or alleged injury;
 - (e) If applicable, the medical attention sought, treatment, and the name of attending physician;
 - (f) Copies of the individual's medical, skin, and exposure history;
 - (g) Steps taken to prevent recurrence of future injuries; and
 - (h) All information requested on the Department's "Report of Injury Form."
- 306.4 The licensee shall maintain all records or reports pertaining to actual or alleged injury at the facility for review until the Department authorizes their disposal.

CHAPTER 4 CONSTRUCTION, SANITATION & MAINTENANCE, PREVENTION OF CONTAMINATION, AND WATER SOURCE, QUALITY AND CAPACITY

400 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES*

- 400.1 The licensee shall use only tanning equipment and devices that comply with these regulations.
- 400.2 Tanning equipment and devices shall meet the National Fire Protection Association National Electrical Code and shall be provided with ground fault protection on the electrical circuit, or other methods for preventing shock.
- 400.3 Every tanning device used by a tanning facility shall comply with all applicable District and Federal laws and regulations, including those promulgated by the Federal Trade Commission and the United States Food and Drug Administration.
- 400.4 Each assembly of tanning equipment or devices shall be provided with an emergency shut-off mechanism on the tanning equipment or device to allow the consumer to manually terminate radiation emission from the equipment or

device at any time without disconnecting the electrical plug or removing any ultraviolet lamp.

- 400.5 Each assembly of tanning equipment or devices shall be designed for use by only one (1) consumer at a time.
- 400.6 All tanning equipment or devices shall include physical barriers to protect consumers from injury induced by touching or breaking the lamps.
- 400.7 There shall be physical barriers around each tanning equipment or device which is in use to protect persons who are not using the device from line-of-sight accidental ultraviolet radiation exposure.

401 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES, PROTECTIVE EYEWEAR

- 401.1 If a consumer does not provide compliant protective eyewear, the licensee shall have compliant protective eyewear available for the consumer to use during any use of tanning equipment.
- 401.2 The licensee shall not allow a consumer to use any tanning equipment if a consumer:
- (a) Refuses to accept compliant protective eyewear offered by the licensee if he or she does not have his or her own; or
 - (b) Vocalizes a refusal to use compliant protective eyewear offered by the licensee or his or her own compliant protective eyewear.
- 401.3 The protective eyewear shall meet FDA requirements stated in 21 C.F.R. § 1040.20(c)(4) (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, Protective eyewear).

402 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES, TIMER

- 402.1 Each assembly of tanning equipment and devices shall be equipped with a timer which complies with the requirements of 21 C.F.R. § 1040.20(c)(2) (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, Timer system. The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time).
- 402.2 The timer intervals shall be indicated in such a manner that it is consistent with the exposure times on the manufacturer's recommended exposure schedule.
- 402.3 No timer interval shall have an error exceeding plus or minus ten percent ($\pm 10\%$) of the maximum timer interval for the product.
- 402.4 The timer may not automatically reset and cause radiation emission to resume for a period greater than the unused portion of the timer cycle when emission from the tanning device has been terminated.

- 402.5 All tanning equipment shall be provided with an override timer control installed outside of the room in which a tanning device is located.
- 402.6 The remote timer shall only be operated by a trained operator or other trained facility employee and shall be located so that the consumer cannot set or reset the consumer's own exposure time.
- 402.7 The remote timer(s) shall comply with the requirements for timers as provided in this section.
- 402.8 New facilities shall install remote timers during the installation of tanning equipment or devices. Applications for change in ownership shall not be approved without proof of installation of remote timers.
- 402.9 Existing tanning equipment or devices not equipped with a remote timer control system shall have the remote timer(s) installed within one (1) year of the effective date of these regulations.

403 DESIGN & CONSTRUCTION – TANNING STAND-UP BOOTHS, CABINETS AND VERTICAL TANNING DEVICES – ADDITIONAL REQUIREMENTS AND TEMPERATURE*

- 403.1 Tanning stand-up booths or cabinets or vertical tanning devices shall have physical barriers or other means compliant with 21 C.F.R. § 1040.20 (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, such as floor markings, to indicate the manufacturer's recommended exposure distance between the ultraviolet lamps and the consumer's skin).
- 403.2 The temperatures inside of enclosed tanning booths or cabinets or vertical tanning devices shall be maintained below one hundred degrees Fahrenheit (100 °F) (thirty-eight degrees Celsius (38 °C)).
- 403.3 Tanning stand-up booths or cabinets or vertical tanning devices shall be constructed with sufficient strength and rigidity to withstand the stress of use and the impact of a falling person.
- 403.4 Access to tanning stand-up booths or cabinets or vertical tanning devices shall be of rigid construction with doors which are non-locking and open outwardly.
- 403.5 Tanning stand-up booths or cabinets or vertical tanning devices shall be constructed with non-slip floors to reduce the potential for injuries from falls.
- 403.6 The floor inside each tanning stand-up booth or cabinet or vertical tanning devices shall be constructed of easily cleanable surfaces and of such material, finish and so fabricated that residue may be effectively removed by normal cleaning methods.
- 403.7 The floor inside each tanning stand-up booth or cabinet or vertical tanning devices shall be cleaned and sanitized as specified in Section 408, and maintained in a non-slip manner as specified in Section 403.5.

- 403.8 Tanning stand-up booths or cabinets or vertical tanning devices shall be maintained in good condition as specified in Section 407.
- 403.9 Tanning stand-up booths or cabinets or vertical tanning devices shall comply with all applicable provisions of these regulations.
- 404 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES, SUPPLIES, INSTALLATION, AND USE***
- 404.1 No person shall make, sell, lease, transfer, lend, repair, assemble, recertify, upgrade, or install tanning equipment, devices, or lamps or provide supplies used in connection with such equipment, devices or lamps unless such equipment, devices, lamps or supplies when properly installed and used meet the requirements specified in Sections 405, 406, 407, 408, and 409.
- 405 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES, AND SUPPLIES, BULBS, SHIELDING***
- 405.1 Each ultraviolet lamp contained within the sunlamp product shall be shielded by two (2) one-piece covers (top and bottom) without cracks or breaks in the acrylic surfaces to prevent contact with the user.
- 406 DESIGN & CONSTRUCTION – TANNING EQUIPMENT AND DEVICES, AND SUPPLIES, REPLACEMENT, ULTRAVIOLET LAMPS, BULBS OR FILTERS, COMPATIBILITY***
- 406.1 The licensee shall only use lamps which have been certified by the FDA as “equivalent” lamps under the FDA regulations and policies applicable at the time of the replacement of the lamps. The format for the equivalency document shall be in compliance with 21 C.F.R. § 1040.20 (Sunlamp products and ultraviolet lamps intended for use in sunlamp products, and shall be in the form of user instructions).
- 406.2 The licensee shall maintain manufacturer’s literature demonstrating the equivalency of any replacement lamps that are not identified as original equipment. Manufacturer documentation shall be kept for all lamps in use at the facility and shall be readily available for Department review.
- 406.3 Defective lamps or filters shall be replaced before further use of the tanning equipment or devices.
- 406.4 Lamps and bulbs designated for medical use only shall not be used.
- 406.5 The licensee shall replace ultraviolet lamps, bulbs or filters as recommended by the manufacturer or as soon as they become defective or damaged.
- 406.6 Only lamps, bulbs, or filters that meet the requirements of the FDA for a particular tanning bed may be used in tanning facilities.

- 407 MAINTENANCE — TANNING EQUIPMENT, TIMER, GOOD REPAIR AND ACCURATE CALIBRATION***
- 407.1 Tanning equipment and devices shall be maintained in good repair in order to prevent any mechanical safety hazards.
- 407.2 The licensee shall ensure that tests are performed quarterly on each assembly of tanning equipment or device and documented in writing to ensure that:
- (a) The timer is accurately calibrated to within ten percent (10%) of the maximum timer interval for the product as specified in Section 402.3; and
 - (b) The consumer is able to terminate radiation emissions manually as specified in Section 400.4.
- 407.3 Maintenance tests shall include the date of the test, and the timer test shall include the indicated time versus the measured time.
- 407.4 The timer shall be tested at the tanning equipment manufacturer's recommended maximum exposure time.
- 408 CLEANING & SANITIZING — EQUIPMENT AND DEVICES, TABLES AND CHAIRS, AND TEST KITS**
- 408.1 All tanning equipment and devices shall be constructed with a smooth, cleanable, nonabsorbent surface, and shall be cleaned and sanitized after each tanning session.
- 408.2 All tanning equipment and devices shall, between consumers, be wiped with a clean paper or cloth towel using a cleaning solution on all surfaces and then sanitized as specified in Sections 408.3 and 408.4 on any portion of the surface which may come in contact with a person's body, after each tanning session.
- 408.3 All tanning equipment and devices, including required eyewear, shall be sanitized with a U.S. Environmental Protection Agency (EPA)-registered sanitizer in accordance with the EPA approved label that is specifically manufactured for sanitizing ultraviolet light emitting equipment, protective eyewear, and that does not damage the unit's acrylic plastic surface.
- 408.4 A test kit or other device that accurately measures the concentration of the sanitizing solution in parts per million (ppm) shall be used to measure the strength of the sanitizing solution at least twice per day of tanning facility operation to ensure sufficient strength of the sanitizing solution.
- 408.5 Tanning facilities shall maintain adequate supplies for cleaning and sanitizing of all tanning equipment and devices.

409 WATER SOURCE – APPROVED SYSTEM*

409.1 The only approved system for drinking water is the District of Columbia public water system.

409.2 A tanning facility shall not obtain water for its operations from a water system that is not the District of Columbia public water system.

410 WATER SOURCE – BOTTLED DRINKING WATER*

410.1 Bottled drinking water used in a tanning facility shall be obtained from approved sources in accordance with 21 C.F.R. § 129.1 (Current good manufacturing practice).

411 WATER QUALITY – STANDARDS*

411.1 Water from a public water system or potable water shall meet the requirements of the applicable provisions of 40 C.F.R. Part 141 (National Primary Drinking Water Regulations), and District of Columbia drinking water quality standards.

411.2 Potable water shall be used for drinking and sanitizing of tanning equipment and devices.

412 WATER CAPACITY – QUANTITY AND AVAILABILITY

412.1 The water source and system shall be of sufficient capacity to meet the water demands of the tanning facility.

412.2 Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the tanning facility.

CHAPTER 5 PLUMBING SYSTEM**500 MATERIALS – APPROVED MATERIALS, USE***

500.1 Each tanning facility's plumbing system and hoses conveying water shall be constructed and repaired with approved materials according to the International Plumbing Code (2006 edition), Subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations.

500.2 Each tanning facility's water filter shall be made of safe materials.

501 DESIGN, CONSTRUCTION, AND INSTALLATION – APPROVED SYSTEM AND CLEANABLE FIXTURES*

501.1 Each tanning facility's plumbing system shall be designed, constructed, and installed according to the International Plumbing Code (2006 edition), Subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations.

- 501.2 Each tanning facility's plumbing system shall be designed, constructed, installed, and maintained according to the International Plumbing Code (2006 edition), Subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations and shall be of sufficient size to:
- (a) Properly convey sewage and liquid disposable waste from the premises;
 - (b) Avoid creating any unsanitary condition or constituting a source of contamination to potable water, tanning equipment, and devices; and
 - (c) Provide sufficient floor drainage to prevent excessive pooling of water or other disposable waste in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor.

501.3 Each plumbing fixture such as a handwashing facility, toilet, or urinal shall be easily cleanable.^N

501.4 Each tanning facility shall be equipped with effective plumbing and sewage facilities and adequate accommodations.

502 DESIGN, CONSTRUCTION, AND INSTALLATION — HANDWASHING SINKS, WATER TEMPERATURE, AND FLOW

502.1 All handwashing sinks, including those in toilet rooms, shall be equipped to provide water at a temperature of at least one hundred degrees Fahrenheit (100 °F) (thirty-eight degrees Celsius (38 °C)) through a mixing valve, a combination faucet, or tempered water and a single faucet.

502.2 A steam mixing valve shall not be used at a handwashing sink.

502.3 A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet.

502.4 Any automatic handwashing facility shall be installed in accordance with the manufacturer's instructions.

503 HANDWASHING SINKS — HANDWASHING CLEANSER, AVAILABILITY, HAND DRYING PROVISION, AND HANDWASHING SIGNAGE

503.1 An automatic handwashing facility may be substituted for a handwashing sink in a tanning facility that has at least one (1) handwashing sink.

503.2 An automatic handwashing facility shall be used in accordance with the manufacturer's instructions.

503.3 Each handwashing sink or group of two (2) adjacent sinks shall be provided with hand cleaning liquid or powder.

- 503.4 Each handwashing sink or group of adjacent sinks shall be provided with:
- (a) Individual, disposable towels; or
 - (b) A heated-air, hand-drying device.
- 503.5 A sign or poster that notifies employees to wash their hands shall be provided at all handwashing sinks.

504 HANDWASHING SINKS – DISPOSABLE TOWELS, WASTE RECEPTACLE

- 504.1 A handwashing sink or group of adjacent sinks that is supplied with disposable towels or suitable drying devices shall be provided with a waste receptacle as specified in Subsections 507.2 and 507.3.

505 DESIGN, CONSTRUCTION AND INSTALLATION – TOILETS AND URINALS, ENCLOSED

- 505.1 Toilet facilities shall be provided in accordance with Section 506 and the International Plumbing Code (2006 edition), Subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations.
- 505.2 A toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door, except that this requirement does not apply to a toilet room that is located outside a tanning facility.
- 505.3 Toilet room doors shall be kept closed except during cleaning and maintenance operations.

506 TOILETS AND URINALS – NUMBER, CAPACITY, CONVENIENCE AND ACCESSIBILITY, PROHIBITION*

- 506.1 Each tanning facility shall maintain toilet facilities for employees, which shall consist of a toilet room or toilet rooms with proper and sufficient water closets and lavatories. Toilet facilities shall be conveniently located and readily accessible to all personnel and customers.
- 506.2 Toilets and urinals provided for employees' use shall be in accordance with the International Plumbing Code (2006 edition), Subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations. Urinals may be substituted for toilets if the substitution is approved by the Department of Consumer and Regulatory Affairs and the Department.
- 506.3 The licensee shall, at a minimum:
- (a) Maintain the toilet facilities in a sanitary condition that is clean and free of trash and litter;
 - (b) Keep the facilities in good repair at all times; and

- (c) Provide self-closing doors.
- 506.4 All single-stall toilet rooms shall display gender-neutral signs on the door that read "Restroom," or have a universally recognized pictorial indicating that persons of any gender may use each restroom, in accordance with the D.C. Human Rights Act of 1977, as amended, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1403.01(c) (2007 Repl)).
- 506.5 Tanning facilities employing:
- (a) Five (5) or fewer employees may provide only a single toilet facility with a gender-neutral sign on the door in accordance with the D.C. Human Rights Act of 1977, as amended, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1403.01(c) (2007 Repl); or
- (b) More than five (5) employees shall have multiple toilet facilities that are either:
- (1) Single-stall toilet rooms with a gender-neutral sign on each door as specified in Section 3101.2 in accordance with the D.C. Human Rights Act of 1977, as amended, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1403.01(c) (2007 Repl.); or
- (2) Multiple-stall toilet rooms with gender-specific signs on the doors that read "Men" and "Women" or contain gender-specific, universally recognized pictorials of "Men" and "Women".
- 506.6 When locker rooms are provided, there shall be both a male and female locker room available, unless the facility is specifically designated for one (1) gender or the other.
- 506.7 If the tanning facility serves only one (1) gender, a restroom shall be made available for employees of the opposite gender.
- 506.8 Toilet facilities shall be deemed conveniently located and accessible to employees during all hours of operation if they are:
- (a) Located within the same building as the business they serve; and
- (b) Accessible during working hours without going outside the building.
- 506.9 At no time shall consumers or employees of one (1) gender enter the bathroom, restroom, or locker room of the other gender, except for routine clean-up after all of the consumers are gone or there is a maintenance emergency that cannot be handled by an employee of the same gender as belongs to the restroom, bathroom, or locker room.

507 TOILETS AND URINALS – TOILET TISSUE, RECEPTACLE COVERED AND AVAILABLE

- 507.1 The licensee shall provide a supply of toilet tissue at each toilet.
- 507.2 The licensee shall provide a waste receptacle in each toilet room.
- 507.3 The licensee shall provide a covered receptacle for feminine hygiene products in any toilet room used by females.

508 OPERATION AND MAINTENANCE – SYSTEM MAINTAINED IN GOOD REPAIR*

- 508.1 Each tanning facility's plumbing system shall be:
- (a) Repaired according to the International Plumbing Code (2006 edition), Subtitle F (Plumbing Code Supplement) of Title 12 of the District of Columbia Municipal Regulations; and
 - (b) Maintained in good repair.

CHAPTER 6 PHYSICAL FACILITIES DESIGN AND CONSTRUCTION, CLEANABILITY, SANITATION, AND MAINTENANCE**600 DESIGN & CONSTRUCTION – BUILDING MATERIALS AND WORKMANSHIP**

- 600.1 The licensee of a newly constructed, remodeled or renovated tanning facility shall ensure that the design, construction, building materials, and workmanship complies with the District's Construction Codes of 2008, as specified in Section 102.1(a) of this chapter.
- 600.2 The licensee of an existing tanning facility shall maintain in good condition the physical integrity of its tanning facility by repairing or replacing structural or design defects, operating systems, or fixtures in use before the effective date of these regulations in accordance with the District's Construction Codes of 2008, as specified in Section 102.1.
- 600.3 At least thirty (30) days before beginning construction or remodeling of a tanning facility, the licensee shall submit construction plans with all schedules, including but not limited to floor plans, elevations, and electrical schematics, to the Department for review and approval, as specified in Section 806.

601 DESIGN & INSTALLATION – LIGHTING AND ELECTRONIC DEVICES*

- 601.1 All rooms of a tanning facility shall have at least one (1) electrical source of light. Lighting luminaries and fixtures may be of incandescent, fluorescent, high density discharge, or light emitting diode (LED) types.

- 601.2 At least fifty (50) foot-candles of light shall be provided in each area and the laundry area.
- 601.3 At least twenty (20) foot-candles of light shall be provided in each restroom, locker room, toilet room, or other areas when fully illuminated for cleaning.
- 601.4 An average illumination value of ten (10) foot-candles of light, but never less than seven and a half (7.5) foot-candles of light, shall be provided in other areas within a tanning facility, including tanning rooms, offices, lobbies, retail shops, and waiting areas.
- 601.5 The above illumination levels shall be attainable at all times while the tanning facility is occupied, except as specified in Section 601.6.
- 601.6 Lighting may be dimmed during a tanning session so long as there is enough light to safely see or to leave the room in case of an emergency.
- 601.7 No tanning facility shall be equipped with tinted windows or two-way mirrors in any room therein.
- 601.8 No tanning facility shall be equipped with any electronic, mechanical, or artificial device used or capable of being used for recording either audio or video activities, conversations, or other sounds in tanning rooms or any other room used by customers.

602 DESIGN & INSTALLATION – SMOKE ALARMS

- 602.1 Each distinct area of a tanning facility separated by a doorway, whether or not a door is currently present, shall be equipped with at least one (1) working smoke alarm which is installed, maintained, and tested according to the International Fire Code (2008 edition), (D.C. Fire Code Supplement) of Title 12 of the District of Columbia Municipal Regulations.
- 602.2 The smoke alarm shall be free of foreign matter such as tape or paint which could impair its proper function.

603 DESIGN & INSTALLATION – HEATING AND VENTILATION SYSTEMS AND POSTING*

- 603.1 All restrooms, locker rooms, and toilet rooms shall be adequately ventilated so that excessive moisture is removed from the room. Acceptable ventilation includes mechanical exhaust ventilation, a recirculating vent, or screened windows.
- 603.2 Each system for heating, cooling, or ventilation shall be properly maintained and operational at all times when the rooms are occupied.
- 603.3 Every tanning room within the facility shall have a thermometer mounted at five feet (5 ft.) above the floor. Adjacent to the thermometer shall be a sign that states:

Patrons shall not tan if room temperature is at one hundred degrees Fahrenheit (100 °F) or (thirty-eight degrees Celsius (38 °C)) or higher. Please report excessive heat to the operator immediately.

603.4 All restrooms, locker rooms, and toilet rooms shall be capable of being maintained at a temperature between sixty-eight degrees Fahrenheit (68 °F) (twenty degrees Celsius (20 °C)) and eighty degrees Fahrenheit (80 °F) (twenty-seven degrees Celsius (27 °C)) while being used by customers.

603.5 The use of portable space heaters is prohibited.

604 CONSTRUCTION & INSTALLATION – FLOORS, WALLS, CEILINGS, AND UTILITY LINES

604.1 All floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable, except that antislip floor coverings or applications may be used for safety reasons.

604.2 The floors in bathrooms, restrooms, locker rooms, and toilet rooms that are next to showers or toilets, or any other wet areas, shall be constructed of smooth, durable, nonabsorbent, and easily cleanable material.

604.3 Every concrete, tile, ceramic, or vinyl floor installed in bathrooms, restrooms, locker rooms, and toilet rooms, which are next to showers or toilets, shall be covered at the junctures between the floor and the walls.

604.4 All material used to cover the junctures shall be fitted snugly to the floor and the walls so that they are water tight and there are not openings large enough to permit the entrance of vermin.

604.5 The material used in constructing the walls and ceilings must be joined along their edges so as to leave no open spaces or cracks.

604.6 Tanning rooms shall be constructed and maintained to provide client privacy.

605 CLEANABILITY – FLOORS, WALLS, CEILINGS, AND UTILITY LINES

605.1 Utility service lines and pipes shall not be unnecessarily exposed.

605.2 Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

605.3 Exposed horizontal utility service lines and pipes shall not be installed on the floor.

606 CLEANABILITY – FLOOR AND WALL JUNCTURES, COVERED, AND ENCLOSED OR SEALED

606.1 Floor and wall junctures shall be covered and closed to no larger than one millimeter (1 mm.) or one thirty-second of an inch (1/32 in.).

606.2 Covering of floor and wall junctures shall be sealed.

607 CLEANABILITY – FLOOR CARPETING, RESTRICTIONS AND INSTALLATION

607.1 A floor covering such as carpeting or similar material shall not be installed as a floor covering in toilet room areas where handwashing sinks, toilets, or urinals are located; refuse storage rooms; or other areas where the floor is subject to moisture.

607.2 If carpeting is installed as a floor covering in areas other than those specified in Section 607.1, it shall be:

- (a) Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another similar method; and
- (b) Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

608 CLEANABILITY – FLOOR COVERING, MATS AND DUCKBOARDS

608.1 The licensee or manager shall inspect the premises prior to each consumer's use to ensure that the floors are dry.

608.2 Mats and duckboards shall be designed to be removable and easily cleanable.

609 PHYSICAL FACILITIES – MAINTENANCE, FLOORS, PUBLIC AREAS

609.1 The physical facilities shall be maintained in good repair and cleaned as often as necessary to keep them clean.

609.2 Every floor and floor covering, shall be kept clean and in good repair, sanitized, or replaced so that it does not become a hazard to health or safety.

609.3 All public areas of a tanning facility, such as the lobbies and merchandising and retail areas shall be maintained in a clean and sanitary manner, free of litter, rubbish, and nuisances.

610 PHYSICAL FACILITIES – CLEANABILITY, SANITIZATION AND MAINTENANCE OF PLUMBING FIXTURES

610.1 Plumbing fixtures such as handwashing sinks, toilets, and urinals shall be cleaned as often as necessary to keep them clean and well-maintained.

610.2 All tanning facilities shall be equipped with toilet facilities, which include a water closet and handwashing sinks, including hot and cold running water, hand cleaning liquid or powder, and a paper towel dispenser or equivalent hand drying equipment.

- 610.3 All restrooms shall be kept in sanitary condition and good repair.
- 611 PHYSICAL FACILITIES – MAINTAINING PREMISES, UNNECESSARY ITEMS AND LITTER**
- 611.1 The grounds surrounding a tanning facility under the control of the licensee shall be kept in a clean and litter-free condition.
- 611.2 The methods for adequate maintenance of grounds include, but are not limited to, the following:
- (a) Properly storing or removing unnecessary equipment that is nonfunctional or no longer used, removing litter and waste, and cutting weeds or grass within the immediate vicinity of the physical facility that may constitute an attractant, breeding place, or harborage for pests;
 - (b) Maintaining roads and parking lots so that they do not constitute an attractant, breeding place, or harborage for pests; and
 - (c) Adequately draining areas that may provide an attractant, breeding place, or harborage for pests.
- 611.3 If the tanning facility's grounds are bordered by grounds not under the operator's control and not maintained in the manner described in Sections 611.1 and 611.2, care shall be exercised by the licensee through inspection, extermination, or other means to exclude pests, dirt, and filth that may become an attractant, breeding place, or harborage for pests.
- 611.4 Methods for maintaining a sanitary operation include providing sufficient space for placement and storage of equipment and linens.
- 612 PHYSICAL FACILITIES – CONTROLLING PESTS***
- 612.1 The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the premises by:
- (a) Routinely inspecting the premises for evidence of pests;^N
 - (b) Using methods, if pests are found, such as trapping devices or other means of pest control as specified in Sections 612 and 613; and
 - (c) Eliminating harborage conditions.^N
- 612.2 The licensee shall maintain a copy of the establishment's professional service contract and service schedule, which documents the following information:
- (a) Name and address of its D.C. licensed pest exterminator/contractor;
 - (b) Frequency of pest extermination services provided under the contract; and

- (c) The date on which pest extermination services were last provided to the establishment.

613 PHYSICAL FACILITIES – REMOVING DEAD OR TRAPPED BIRDS, INSECTS, RODENTS, AND OTHER PESTS

- 613.1 Dead or trapped birds, insects, rodents, and other pests shall be removed from a trap or the traps shall be discarded from the premises at a frequency that prevents accumulation, decomposition, or the attraction of other pests.

614 PHYSICAL FACILITIES – PROHIBITING ANIMALS*

- 614.1 Patrol dogs accompanying police or security officers and sentry dogs running loose in outside fenced areas or dogs providing assistance to individuals with physical handicaps may be allowed in a tanning facility if the presence of the animals does not result in contamination of tanning equipment, devices, or supplies.

CHAPTER 7 REFUSE, RECEPTACLES, STORAGE AND REMOVAL

700 REFUSE FACILITIES ON PREMISES – RECEPTACLES, STORAGE AREAS, GOOD REPAIR, AND OUTSIDE STORAGE AREAS & REMOVAL FREQUENCY

- 700.1 An inside storage room or area, outside storage area or enclosure, and receptacles shall be of sufficient capacity to hold the refuse that accumulate.
- 700.2 Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the tanning facility or within closed containers in outside receptacles.
- 700.3 Receptacles and waste handling units shall be designed and constructed with tight-fitting lids, doors, or covers.
- 700.4 Receptacles and waste handling units shall be durable, cleanable, insect- and rodent-resistant, leakproof, nonabsorbent, and maintained in good repair.
- 700.5 If used, an outdoor enclosure for refuse shall be constructed of durable and cleanable materials and shall be located so that a public health hazard or nuisance is not created.
- 700.6 An outdoor storage surface for refuse shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.
- 700.7 Storage areas, enclosures, and receptacles for refuse shall be maintained in good repair.
- 700.8 Storage areas and enclosures for refuse shall be kept clean and maintained free of unnecessary items, as specified in Section 611.

701 REMOVAL FREQUENCY

- 701.1 The licensee shall maintain a copy of the facility’s professional service contract which documents the following information:
 - (a) Name and address of its District-licensed trash or solid waste contractor;
 - (b) Duration of the contract; and
 - (c) Frequency of trash or solid waste collection services provided under the contract.
- 701.2 Trash or solid waste collection shall comply with Title 21, Chapter 7 of the DCMR.

CHAPTER 8 COMPLIANCE, ENFORCEMENT AND DEFINITIONS

800 LICENSE REQUIREMENTS – PREREQUISITES FOR OPERATING, VENDING, OR MANAGING, OR TRAINING*

- 800.1 No person shall own, open, or operate a tanning facility in the District without a tanning facility license issued by the Mayor.
- 800.2 No person shall own, open, or operate a tanning facility in the District with an expired or suspended license.
- 800.3 No person shall open, or operate a tanning facility in the District without a valid Certificate of Occupancy;
- 800.4 Except for routine maintenance such as required cleaning and sanitizing of tanning equipment and replacement of bulbs as specified in Sections 406 and 408 by a facility’s manager, operator or trained employee, no person shall sell, lease, transfer, loan, assemble, certify, recertify, upgrade, install, service, or repair tanning equipment or devices in the District without a valid tanning service provider registration issued by the Mayor.
- 800.5 No person shall furnish or offer to furnish tanning equipment, devices, or associated components, such as bulbs and filters, in the District without a valid tanning service provider registration issued by the Mayor.
- 800.6 No licensee shall use a tanning service provider company unless such company possesses a valid tanning service provider registration issued by the Mayor as specified in Section 800.4.
- 800.7 No person shall manage a tanning facility in the District without obtaining a valid District-issued Tanning Facility Manager Identification Card issued by the Department as specified in Section 200.6.

801 APPLICATION PROCEDURE – PERIOD AND FORM OF SUBMISSION, PROCESSING

- 801.1 An applicant shall submit an application for a license at least thirty (30) calendar days before the date planned for opening a tanning facility or at least thirty (30) calendar days before the expiration date of the current license for an existing tanning facility.
- 801.2 Licenses shall be valid for a two (2) year period.
- 801.3 License fees shall be prorated for licenses issued after the beginning of the license period.
- 801.4 An applicant shall submit a written application for a license or tanning service provider registration on a form provided by the Department.
- 801.5 A new application shall be filed with the Department within thirty (30) days of any change in ownership or location. A licensee shall also notify the Department at least thirty (30) calendar days before permanently or temporarily discontinuing operations.
- 801.6 The Department shall not process applications for a change in ownership or location where administrative actions are pending against an existing facility that has not been resolved.

802 APPLICATION PROCEDURE – CONTENTS OF THE APPLICATION PACKET

- 802.1 An application for a license to operate a tanning facility shall include the full name(s), true name(s) or any other name(s) used by the applicant, and the following information:
 - (a) The present address and telephone number of each applicant:
 - (1) If the applicant is an individual, the individual’s home address;
 - (2) If the applicant is a corporation, the names and residence addresses of each of the officers and directors of said corporation and each stock holder owning more than ten percent (10%) of the stock of the corporation, and the address of the corporation itself if it is different from the address of the tanning facility; or
 - (3) If the applicant is a partnership, the names and residence addresses of each partner, including limited partners, and the address of the partnership itself if different from the address of the tanning facility.
 - (b) Each applicant’s signature;
 - (c) Name and address of registered agent, if applicable;

- (d) The location, mailing address, and all telephone numbers where the business is to be conducted;
- (e) Proof that the applicant is at least the age of majority;
- (f) Driver's license or Government ID with the date of birth of each applicant; and
- (g) A complete set of construction plans including all schedules (for example, floor plans, elevations, and electrical schematics), if applicable.

803 DENIAL OF APPLICATION FOR LICENSE – NOTICE

803.1 If an application for a license or a renewal of a license is denied, the Department shall provide the applicant with written notice that includes:

- (a) The specific reasons and legal authority for denial of the license;
- (b) The actions, if any, that the applicant must take to qualify for a new license or to renew a license; and
- (c) Notice of the applicant's right to a hearing and the process and timeframes for appeal as prescribed in Chapter 13 of this subtitle.

804 ISSUANCE OF LICENSE – NOTICE OF OPENING, DISCONTINUANCE OF OPERATION, AND POSTING

804.1 A tanning facility shall provide notice to the Department of its intent to operate at least thirty (30) calendar days before beginning operations.

804.2 A tanning facility shall provide notice to the Department of its intent to shut down permanently or temporarily at least thirty (30) calendar days before discontinuing operations.

804.3 If a tanning facility is closed for more than a thirty (30) day period, the tanning facility's license and certificate of occupancy shall be returned to the Department and the owner shall be required to submit a new application as specified in Section 801.5 for the issuance of a new license prior to reopening.

804.4 A current inspection report, and all valid licenses, Certificate of Occupancy and "Warning Statements" required in Sections 302.3, 800.1, 800.2 and 800.3, and shall be conspicuously posted in the reception area next to the tanning facility's license.

805 ISSUANCE OF LICENSE – NEW, CONVERTED OR REMODELED, EXISTING OPERATIONS AND CHANGE OF OWNERSHIP OR LOCATION

805.1 Each applicant shall submit:

- (a) A properly completed application packet provided by the Department;
- (b) Copies of all operating and safety procedures unique to the facility's operation;
- (c) Copies of each manufacturer's recommended exposure schedule and the recommended supplies such as lamps and filters for each model of tanning equipment and devices;
- (d) Copies of the maintenance records as specified in Section 303 for license renewals;
- (e) Proof of payment of the application and license fees; and
- (f) Proof of the Department's review and approval of required plans and specifications as specified in Section 806, if applicable.

805.2 If the applicant meets the qualifications as specified in Section 802 and the Department determines through its inspection as specified in Section 807 that the operation is in compliance with these regulations, the Department shall approve:

- (a) A new tanning facility;
- (b) An existing tanning facility that has changed ownership or location; or
- (c) An existing tanning facility's license renewal.

806 ISSUANCE OF LICENSE — REQUIRED PLAN REVIEWS AND APPROVALS

806.1 A license applicant or licensee shall submit to the Department for review and approval properly prepared plans and specifications before:

- (a) The construction of a tanning facility;
- (b) The conversion of an existing structure for use as a tanning facility; or
- (c) Major renovation, remodeling, or alteration of a tanning facility if the Department determines that plans and specifications are necessary to ensure compliance with these regulations.

806.2 Plans required by this section shall include specifications showing layout, arrangement, and construction materials, and the location, size, and type of fixed equipment and facilities.

806.3 Plans, specifications, an application form, and the applicable fee shall be submitted at least thirty (30) calendar days before beginning construction, remodeling, or conversion of a facility.

806.4 The Department shall approve the completed plans and specifications if they meet the requirements of these regulations, and the Department shall report its findings to the license applicant or licensee within thirty (30) days of the date the completed plans are received.

806.5 Plans and specifications that are not approved as submitted shall be changed to comply or be deleted from the project.

**807 ISSUANCE OF LICENSE – REQUIRED INSPECTIONS,
PREOPERATIONAL, CONVERSIONS AND RENOVATIONS***

807.1 The Department shall conduct one (1) or more preoperational inspections to verify and approve that the tanning facility is constructed and equipped in accordance with plans and modifications approved by the Department as specified in Section 806; has established standard operating procedures as specified in Chapter 3; and is in compliance with these regulations.

**808 CONDITIONS OF LICENSE RETENTION – RESPONSIBILITIES OF
THE LICENSEE**

808.1 Upon receipt of a license issued by the Department, the licensee, in order to retain the license, shall comply with Subsections 808.2 through 808.6.

808.2 The licensee shall post a current license, valid Certificate of Occupancy, current inspection reports, and “Warning Statement” in a conspicuous location within the tanning facility as specified in Section 804.4.

808.3 The licensee shall comply with the provisions of these regulations and approved plans as specified in Section 806.

808.4 The licensee shall immediately discontinue operations and notify the Department if an imminent health hazard exists as specified in Section 906.

808.5 The licensee shall allow representatives of the Department access to its tanning facility as specified in Section 900.

808.6 The licensee shall replace existing operating systems, equipment, devices, fixtures, or furniture that do not comply with these regulations pursuant to a documented agreement with the Department requiring the operating systems, or equipment, devices, or fixtures, furniture to be replaced with an operating system, or equipment, devices, fixtures, linens, furniture that comply with these regulations, or the Department may direct the replacement of existing operating systems, or equipment, devices, fixtures, or furniture because the equipment, devices, fixtures, or furniture constitute a public health hazard or nuisance as specified in Section 102.2.

808.7 The licensee shall maintain required maintenance records that reflect the manufacturer, model, and serial number of, and date each piece of tanning equipment or device was sold, leased, transferred, loaned, assembled, recertified, upgraded, installed, serviced, or repaired as specified in Section 303.4(a).

809 CONDITIONS OF RETENTION – LICENSE NOT TRANSFERABLE

809.1 A tanning facility license shall not be transferred from one person to another person or from one location to another.

CHAPTER 9 INSPECTION AND CORRECTION OF VIOLATIONS**900 ACCESS & INSPECTION FREQUENCY – DEPARTMENT RIGHT OF ENTRY, DENIAL MISDEMEANOR***

900.1 The Department shall determine a tanning facility's compliance with these regulations by conducting on-site:

- (a) Preoperational inspections;
- (b) Unannounced routine annual and follow-up inspections; and
- (c) Unannounced complaint generated inspections.

900.2 After representatives of the Department present official credentials and provide notice of the purpose and intent to conduct an inspection in accordance with these regulations, the applicant or licensee shall allow the Department access to any part, portion, or area of a tanning facility.

900.3 The Department may enter and inspect all aspects of a tanning facility, including but not limited to tanning rooms, locker rooms, bathrooms, employee lounge areas, kitchens/food service facilities, or other areas of a tanning facility for the following purposes:

- (a) To determine if the tanning facility is in compliance with these regulations;
- (b) To investigate an emergency affecting the public health if the tanning facility is or may be involved in the matter causing the emergency;
- (c) To investigate, examine, and sample or swab equipment, devices, fixtures, linens, furnishings, garments, or other supplies; and
- (d) To obtain information and examine and copy all records on the premises relating to the purchase, sale, lease, transfer, loan, assemble, certification, upgrade, installation, service, or repair of tanning equipment and devices.

900.4 If a person denies the Department access to any part, portion, or area of a tanning facility, the Department shall inform the individual that:

- (a) The applicant or licensee is required to allow access to the Department, as specified in Sections 900.1, 900.2, and 900.3;

- (b) Access is a condition of the receipt and retention of a license as specified in Section 808.5;
- (c) If access is denied, an inspection order allowing access may be obtained in accordance with District law; and
- (d) The Department is making a final request for access.

900.5 If the Department presents credentials and provides notice as specified in Section 900.2, explains the authority upon which access is requested, and makes a final request for access as specified in Section 900.4(d), and the applicant or licensee continues to refuse access, the Department shall provide details of the denial of access on the inspection report.

900.6 If the Department is denied access to a tanning facility for an authorized purpose, after complying with Sections 900.2 through 900.4, the Department may:

- (a) Summarily suspend a license to operate a tanning facility in accordance with Section 1108;
- (b) Revoke or suspend a license to operate a tanning facility in accordance with Section 1113; or
- (c) Request that the Office of the Attorney General for the District of Columbia commence an appropriate civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief from the court including but not limited to administrative search warrants, to enforce these regulations in accordance with the Department of Health Functions Clarification Act of 2002, effective October 3, 2001, as amended, (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2008 Repl.; 2012 Supp.)).

901 REPORT OF FINDINGS – DOCUMENTING INFORMATION AND OBSERVATIONS

901.1 The Department shall document on an inspection report form:

- (a) Administrative information about the tanning facility's legal identity, street and mailing addresses, inspection date, and other information such as status of the license and personnel certificates that may be required or other inspectional findings; and
- (b) Specific factual observations of violations of these regulations that require correction by the licensee including:
 - (1) Nonconformance with critical items of these regulations;
 - (2) Failure of a licensee to correct cited violations, as specified in Section 908 or 910; or

- (3) Failure of the licensee to ensure that operators are properly trained and have knowledge of their responsibility as specified in Chapter 2.

902 REPORT OF FINDINGS – SPECIFYING TIME FRAME FOR CORRECTIONS

- 902.1 The Department shall specify on the inspection report the time frame for correction of violations as specified in Sections 908 and 910.

903 REPORT OF FINDINGS – ISSUING REPORT AND OBTAINING ACKNOWLEDGMENT OF RECEIPT

- 903.1 At the conclusion of the inspection, the Department shall provide a copy of the completed inspection report and the notice to correct violations to the licensee and request a signed acknowledgment of receipt. The inspection report shall contain a listing of violations by area in the operation and inspection item with corresponding citations to applicable provisions in these regulations and shall be conspicuously posted in the reception area next to the tanning facility's license.

904 REPORT OF FINDINGS – REFUSAL TO SIGN ACKNOWLEDGMENT

- 904.1 The Department shall inform a person who declines to sign an acknowledgment of receipt of inspection findings that:
- (a) An acknowledgment of receipt is not an agreement with the finding;
 - (b) Refusal to sign an acknowledgment of receipt will not affect the licensee's obligation to correct the violations noted in the inspection report within the time frames specified; and
 - (c) A refusal to sign an acknowledgment of receipt will be noted in the inspection report for the tanning facility.

905 REPORT OF FINDINGS – PUBLIC INFORMATION, RECORDS RETENTION

- 905.1 The Department shall keep and maintain in-office an active record of each inspection report, complaint, inspector's sample reports, license suspension, and other correspondence made by any tanning facility within the District for a period of one (1) year, and as an inactive record for a period of two (2) additional years. Inactive records shall be destroyed in-house at the end of the two (2)-year inactive period.
- 905.2 In the case of an audit or investigation, the Department shall keep all records until the audit or investigation has been completed.
- 905.3 The Department shall treat the inspection report as a public document and shall make it available for disclosure to a person who requests it as provided in the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code §§ 2-501, *et seq.* (2006 Repl.; 2011 Supp.)).

**906 IMMINENT HEALTH HAZARD — CEASING OPERATIONS AND
EMERGENCY REPORTING***

906.1 The Department shall summarily suspend operations, or a licensee shall immediately discontinue operations and notify the Department, whenever a facility is operating with any of the following conditions:

- (a) Operating with extensive fire damage that affects the tanning facility's ability to comply with these regulations;
- (b) Operating with serious flood damage that affects the tanning facility's ability to comply with these regulations;
- (c) Operating with loss of electrical power to critical systems, including but not limited to lighting, heating, cooling, or ventilation controls for a period of two (2) or more hours;
- (d) Operating with incorrect hot water temperatures that cannot be corrected during the course of the inspection in violation of Section 502.1;
- (e) Operating with no hot water, or an unplanned water outage, or the water supply is cut off in its entirety for a period of one (1) or more hours in violation of Sections 412.2 and 502.1;
- (f) Operating with inadequate water pressure to any part of the tanning facility;
- (g) Operating with insufficient water capacity to any part of the tanning facility in violation of Section 412.1;
- (h) Operating with a water supply that is not approved by the Department in violation of Section 409;
- (i) Operating with a plumbing system supplying potable water that may result in contamination of the potable water;
- (j) Operating with a sewage backup or sewage that is not disposed of in an approved and sanitary manner;
- (k) Operating with a cross-connection between the potable water and non-potable water distribution systems, including but not limited to landscape irrigation, air conditioning, heating, or fire suppression system;
- (l) Operating with a back siphonage event;
- (m) Operating with toilet or handwashing facilities that are not properly installed;

- (n) Operating with the presence of toxic or noxious gases, vapors, fumes, mists or particulates in concentrations immediately dangerous to life or health, or in concentrations sufficient to cause an environmental disease or public nuisance;
- (o) Operating with the presence of any unapproved pesticide residues in the interior building areas of a tanning facility, in food storage or service areas contained within the tanning facility, or in the presence of any food in the facility; or in the presence of excessive restricted-use pesticide in any outdoor area of a tanning facility; or any evidence of the indiscriminate use of a pesticide or herbicide which may be injurious to the health of humans;
- (p) Operating with equipment that by condition, design, construction, or use poses an immediate risk of entrapment, fall, puncture, pinch, crush, trip, or other injuries;
- (q) Operating with environmental surfaces, including but not limited to tanning beds, stand-up tanning booths, cabinets, or vertical tanning devices, supplies, pillows, linens, garments, other items within a tanning facility that are stained with blood or bodily fluids, or soiled; or infested with vermin; or are in an otherwise unsanitary condition;
- (r) Operating with gross insanitary occurrence or condition that may endanger public health including but not limited to an infestation of vermin; or
- (s) Failing to eliminate the presence of insects, rodents, or other pests on the premises in violation of Sections 612 or 613.

906.2

In addition to the imminent health hazards identified in Section 906.1, the Department shall summarily suspend operations if it determines through an inspection, or examination of records or other means as specified in Section 903, the existence of any other condition which endangers the public health, safety, or welfare, including but not limited to:

- (a) Operating a tanning facility without a license in violation of Section 800.1;
- (b) Operating a tanning facility with an expired license in violation of Section 800.2;
- (c) Operating a tanning facility with a suspended license in violation of Section 800.2;
- (d) Operating a tanning facility without a valid Certificate of Occupancy in violation of Section 800.3;
- (e) Operating a tanning facility without required warning statements in violation of Sections 804.4;

- (f) Operating a tanning facility without a valid District-Issued Tanning Facility Manager’s Identification Card in violation of Subsections 200.6 and 800.7;
- (g) Operating a tanning facility without a manager or operator who is on duty and on the premises during all hours of operation in violation of Section 200.2;
- (h) Selling, leasing, transferring, loaning, assembling, certifying, recertifying, upgrading, installing, servicing, or repairing tanning equipment or devices without a valid tanning service provider registration in violation of Section 800.4;
- (i) Using a tanning service provider company that is not registered in the District in violation of Section 800.5;
- (j) Failing to allow access to DOH representatives during the facility’s hours of operation and other reasonable times as determined by the Department in violation of Section 900.2;
- (k) Hindering, obstructing, or in any way interfering with any inspector or authorized Department personnel in the performance of his or her duty; or
- (l) Operating in violation of any provision specified in Chapter 12.

907 IMMEDIATE HEALTH HAZARD – RESUMPTION OF OPERATIONS

- 907.1 If operations are discontinued as specified in Section 906 or otherwise according to applicable D.C. laws and regulations, the licensee shall obtain approval from the Department before resuming operations.
- 907.2 The Department shall determine whether a licensee needs to discontinue operations that are unaffected by the imminent health hazard in a tanning facility as determined by the Department or other District agency.

908 CRITICAL VIOLATIONS – TIME FRAME FOR CORRECTION*

- 908.1 A licensee shall, at the time of inspection, correct a critical violation of these regulations and implement corrective action as specified in Section 908.2.
- 908.2 The Department may consider the nature of the potential hazard involved and the complexity of the corrective action needed and agree to specify a longer timeframe, not to exceed five (5) business days after the inspection, for the licensee to correct a critical violation of these regulations.
- 908.3 Failure to correct violations in accordance with this section may subject a licensee to a condemnation order pursuant to Section 1102, summary suspension of a license pursuant to Section 1108, revocation or suspension of a license pursuant to Section 1113, civil penalties pursuant to Section 1114, or judicial remedies pursuant to Section 1116.

909 CRITICAL VIOLATION – VERIFICATION AND DOCUMENTATION OF CORRECTION

- 909.1 The licensee shall correct critical violations no later than five (5) business days after an inspection. The Department shall enter the violation and information about the corrective action on the inspection report.
- 909.2 After receiving notification that the licensee has corrected a critical violation, the Department shall verify correction of the violation, document the information on an inspection report, and enter the report in the Department's records.

910 NONCRITICAL VIOLATIONS – TIME FRAME FOR CORRECTION

- 910.1 The licensee shall correct noncritical violations no later than fourteen (14) business days after the inspection, except as specified in Section 910.2.
- 910.2 The Department may approve a compliance schedule that extends beyond the time limits specified in Section 910.1 if the licensee submits a written schedule of compliance and no health hazard exists or will result from allowing an extended schedule for compliance.
- 910.3 Failure to correct violations in accordance with this section may result in the revocation or suspension of a license pursuant to Section 1113, issuance of civil penalties pursuant to Section 1114, or the imposition of judicial remedies pursuant to Section 1116.

911 REQUEST FOR REINSPECTION

- 911.1 If a license is summarily suspended pursuant to Section 1108 or suspended or revoked pursuant to Section 1113 because of violations of these regulations, the licensee shall submit a written request for reinspection and pay the required reinspection fee.
- 911.2 Upon receipt of a request for reinspection, the Department shall conduct the reinspection of a tanning facility within three (3) business days of receipt of the request.
- 911.3 A tanning facility shall not resume operations or remove from public view any warning or current inspection result as specified in Sections 301, 302.3, or 804.4, or any enforcement order as specified in Section 907.1 until the Department has reinspected the tanning facility and certified that it is in compliance with these regulations.

CHAPTER 10 NOTICES**1000 SERVICE OF NOTICE – PROPER METHODS**

- 1000.1 A notice issued in accordance with Section 3102 of Title 16 of the District of Columbia Municipal Regulations and these regulations shall be deemed properly served if it is served by one (1) of the following methods:

- (a) The notice is personally served by the Department, a law enforcement officer, or a person authorized to serve civil process and service is made to the licensee or person operating a tanning facility without a license;
- (b) The notice is sent by the Department to the last known address of the licensee or person operating a tanning facility without a license, or by other public means so that a written acknowledgment of receipt may be acquired; or
- (c) For civil infraction penalties, the notice is provided by the Department in accordance with the procedures stated in Section 3102 of Title 16 of the District of Columbia Municipal Regulations.

1001 SERVICE OF NOTICE – RESTRICTION OR EXCLUSION, CONDEMNATION, OR SUMMARY SUSPENSION ORDERS

1001.1 An employee restriction or exclusion order, condemnation order, or summary suspension order shall be:

- (a) Served as specified in Section 1000.1(a); or
- (b) Clearly posted by the Department at a public entrance to the tanning facility and a copy of the notice sent by first class mail to the licensee or manager of a tanning facility, as appropriate.

1002 SERVICE OF NOTICE – WHEN NOTICE IS EFFECTIVE

1002.1 Service is effective at the time of the notice's receipt as specified in Section 1001.1(a), or if service is made as specified in Section 1001.1(b) at the time of the notice's posting.

1003 SERVICE OF NOTICE – PROOF OF PROPER SERVICE

1003.1 Proof of proper service may be made by certificate of service signed by the person making service or by admission of a return receipt, certificate of mailing, or a written acknowledgment signed by the licensee or person operating a tanning facility without a license or an authorized agent.

CHAPTER 11 REMEDIES

1100 CRITERIA FOR SEEKING REMEDIES – CONDITIONS WARRANTING REMEDY

1100.1 The Department may seek an administrative or judicial remedy to achieve compliance with the provisions of these regulations if a licensee, person operating a tanning facility, or employee:

- (a) Fails to have a valid license as specified in Subsections 800.1 and 800.2;
- (b) Fails to pay the required fee as specified in Section 805.1(f);

- (c) Violates any term or condition of a license as specified in Section 808;
- (d) Fails to allow the Department access to a tanning facility as specified in Section 900;
- (e) Fails to comply with directives of the Department including time frames for corrective actions specified in inspection reports, orders, or warnings issued by the Department as specified in Sections 1008 and 1010;
- (f) Fails to comply with a condemnation order as specified in this chapter;
- (g) Fails to comply with a summary suspension order by the Department as specified in this chapter;
- (h) Fails to comply with an order issued as a result of an administrative hearing;
- (i) Makes any material false statement in the application for licensure;
- (j) Falsifies or alters records required to be kept by these regulations; or
- (k) Seeks to operate with conditions revealed by the application or any report, records, inspection, or other means which would warrant the Department refusal to grant a new license.

1100.2 The Department may simultaneously use one or more of the remedies listed in this chapter to address a violation of these regulations.

1101 ADMINISTRATIVE – EXAMINING, SAMPLING, AND TESTING OF EQUIPMENT, FURNITURE, DEVICES, FIXTURES, AND FURNISHINGS

1101.1 The Department may examine, collect samples without cost and test as necessary to determine compliance with these regulations.

1102 ADMINISTRATIVE – CONDEMNATION ORDER, JUSTIFYING CONDITIONS AND REMOVAL OF EQUIPMENT OR DEVICES

1102.1 A duly authorized agent of the Department may condemn and forbid the sale of, or cause to be removed and destroyed, any equipment, device, fixture, or supplies found in a tanning facility the use of which does not comply with these regulations, or that is being used in violation of these regulations, or that because of dirt, filth, extraneous matter, corrosion, open seams, or chipped or cracked surfaces is unfit for use.

1103 ADMINISTRATIVE – CONDEMNATION ORDER, CONTENTS

1103.1 The condemnation order shall:

- (a) State that the equipment, devices, fixtures, or other supplies subject to the order may not be used, sold, moved from the tanning facility, or destroyed without a written release of the order from the Department;
- (b) State the specific reasons for placing the equipment, devices, fixtures, or other supplies under the condemnation order with reference to the applicable provisions of these regulations and the hazard or adverse effect created by the observed condition;
- (c) Completely identify the equipment, devices, fixtures, or other supplies subject to the condemnation order by the common name, the label or manufacturer's information, description of the item, the quantity, the Department's tag or identification information, and location;
- (d) State that the licensee has the right to a hearing and may request a hearing by submitting a timely request in accordance with Chapter 13, which request does not stay the Department's imposition of the condemnation order;
- (e) State that the Department may order the destruction, replacement or removal of equipment, devices, fixtures, or other supplies if a timely request for a hearing is not received; and
- (f) Provide the name and address of the Department representative to whom a request for a hearing may be made.

1104 ADMINISTRATIVE – CONDEMNATION ORDER, OFFICIAL TAGGING OR MARKING OF EQUIPMENT OR DEVICES

1104.1 The Department shall place a tag, label, or other appropriate marking to indicate the condemnation of equipment, devices, fixtures, or other supplies that do not meet the requirements of these regulations.

1104.2 The tag or other method used to identify the equipment, devices, fixtures, or other supplies that are the subject of a condemnation order shall include a summary of the provisions specified in Section 1103 and shall be signed and dated by the Department.

1105 ADMINISTRATIVE – CONDEMNATION ORDER, EQUIPMENT, DEVICES AND FURNISHING RESTRICTIONS

1105.1 Equipment, devices, fixtures, or other supplies that are subject to a condemnation order may not be used, sold, moved, or otherwise destroyed by any person, except as specified in Section 1106.2.

1106 ADMINISTRATIVE – CONDEMNATION ORDER, REMOVING THE OFFICIAL TAG OR MARKING

1106.1 No person shall remove the tag, label, or other appropriate marking except under the direction of the Department as specified in Section 1106.2.

1106.2 The Department shall issue a notice of release from a condemnation order and shall remove condemnation tags, labels, or other appropriate markings from tanning equipment, devices, fixtures, or other supplies if:

- (a) The condemnation order is vacated; or
- (b) The licensee obtains authorization from the Department to discard the tanning equipment, devices, fixtures, or supplies identified in the condemnation order.

1107 ADMINISTRATIVE — CONDEMNATION ORDER, WARNING OR HEARING NOT REQUIRED

1107.1 The Department may issue a condemnation order to a licensee, or to a person who owns or controls the equipment, devices, fixtures, or other supplies as specified in Section 1102, without prior warning, notice of a hearing, or a prior hearing on the condemnation order.

1107.2 The licensee shall have the right to request a hearing within fifteen (15) business days of receiving a Department condemnation order. The Department shall hold a hearing within seventy-two (72) hours of receipt of a timely request, and shall issue a decision within seventy-two (72) hours after the hearing. The request for a hearing shall not act as a stay of the condemnation action.

1108 ADMINISTRATIVE — SUMMARY SUSPENSION OF LICENSE, CONDITIONS WARRANTING ACTION

1108.1 The Department may summarily suspend a license to operate a tanning facility if it is denied access to the tanning facility to conduct an inspection, or determines through an inspection, or examination of operators, employees, records, or other means as specified in the regulations, that an imminent health hazard exists.

1109 ADMINISTRATIVE — CONTENTS OF SUMMARY SUSPENSION NOTICE

1109.1 A summary suspension notice shall state:

- (a) That the license of a tanning facility is immediately suspended and that all operations shall immediately cease;
- (b) The reasons for summary suspension with reference to the provisions of these regulations that are in violation;
- (c) The name and address of the Department representative to whom a written request for reinspection may be made and who may certify that reasons for the suspension are eliminated; and
- (d) That the licensee may request a hearing by submitting a timely request in accordance with Section 1110, which request does not stay the Department's imposition of the summary suspension.

1110 ADMINISTRATIVE – SUMMARY SUSPENSION, WARNING OR HEARING NOT REQUIRED

1110.1 The Department may summarily suspend a license as specified in Section 1108 by providing written notice as specified in Section 1109 of the summary suspension to the licensee, without prior warning, notice of a hearing, or prior hearing.

1110.2 The licensee shall have the right to request a hearing within fifteen (15) business days after receiving the Department's summary suspension notice. The Department shall hold a hearing within seventy-two (72) hours of receipt of a timely request, and shall issue a decision within seventy-two (72) hours after the hearing. The request for a hearing shall not act as a stay of the summary suspension.

1111 ADMINISTRATIVE – SUMMARY SUSPENSION, TIME FRAME FOR REINSPECTION

1111.1 After receiving a written request from the licensee stating that the conditions cited in the summary suspension order no longer exist, the Department shall conduct a reinspection of the tanning facility for which the license was summarily suspended within three (3) business days of receiving the request.

1112 ADMINISTRATIVE – SUMMARY SUSPENSION, TERM OF SUSPENSION, REINSTATEMENT

1112.1 A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and the Department has confirmed, through reinspection or other appropriate means that the conditions cited in the notice of suspension have been eliminated.

1113 ADMINISTRATIVE – REVOCATION OR SUSPENSION OF LICENSE

1113.1 Failure to comply with any of the provisions of these regulations shall be grounds for the revocation or suspension of any license issued to a tanning facility pursuant to the Department of Health Functions Clarification Act of 2002, effective October 3, 2001, as amended, (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2008 Repl.; 2012 Supp.)). When there is a history of repeated violations or where a license has been previously suspended, the Department may revoke a license upon a showing of a subsequent violation.

1113.2 Before the Department revokes or suspends a license, the licensee shall be given an opportunity to answer and to be heard on the violations.

1114 ADMINISTRATIVE – CIVIL PENALTIES

1114.1 Civil fines, penalties, or related costs may be imposed against any tanning facility licensee for violation of any provision of these regulations.

1114.2 The Department may impose penalties for violations of any provision of these regulations not to exceed two thousand five hundred dollars (\$2,500) for each

violation. Each day of any failure to comply with these regulations shall constitute a separate offense and the penalties prescribed in this section shall apply to each separate offense in accordance with the Department of Health Functions Clarification Act of 2002, effective October 3, 2001, as amended, (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2008 Repl.; 2012 Supp.)).

1114.3 Civil fines or penalties imposed pursuant to Section 1114.2 shall reflect the severity of the violation and the extent to which it creates an imminent threat to the public health. Maximum amounts shall be limited to egregious or flagrant violations involving gross negligence or carelessness resulting in injury which do not meet the criminal penalty standards in Section 1116.

1115 ADMINISTRATIVE – CIVIL PENALTIES, NOTICES OF VIOLATION OR INFRACTIONS

1115.1 The notice of violation shall state the nature of the violation and allow a reasonable time for performance of the necessary corrective action.

1115.2 If a person fails to comply with the time stated in the notice of violation issued pursuant to this section, the Department shall issue a proposed compliance order, or a proposed cease and desist order, which shall include a statement of the nature of the violation, afford the right to a hearing, allow a reasonable time for compliance with the order, and state any penalties to be assessed for failure to comply with the order.

1116 JUDICIAL – CRIMINAL PENALTIES, INJUNCTIVE RELIEF, OR IMPRISONMENT

1116.1 Any person who knowingly violates any provision of these regulations shall, upon conviction, be punished by a fine not to exceed two thousand five hundred dollars (\$2,500), imprisonment not to exceed one (1) year, or both, for each violation. Each day of any failure to comply with these regulations shall constitute a separate offense and the penalties prescribed in this section shall apply to each separate offense in accordance with the Department of Health Functions Clarification Act of 2002, effective October 3, 2001, as amended, (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2008 Repl.; 2012 Supp.)).

CHAPTER 12 PROHIBITED CONDUCT AND ACTIVITIES

1200 PROHIBITED CONDUCT – ADVERTISEMENT, POSTING

1200.1 No person shall state or imply that any activity conducted by such person or such person's facility has been approved by the Department.

1200.2 Except for advertisements that are used on the premises, no person or facility shall advertise or promote tanning services without the tanning facility's name, address, telephone number, and license number on the advertisement.

1200.3 No person shall indicate in any advertisement or posting that such person's tanning equipment is safe or free of hazards from ultraviolet radiation, including

but not limited to statements such as “no burning,” “no harmful rays,” “no adverse effects,” “safe tanning,” “healthy,” or similar wording of concepts.

- 1200.4 No person shall claim in any advertisement or posting any medical or health benefits from such person’s tanning equipment or devices, nor imply use of tanning services as a medical treatment.
- 1200.5 No person or facility shall advertise or promote “unlimited” tanning exposure packages in excess of a tanning equipment manufacturer’s recommended exposure schedule as defined in Section 9901.1.
- 1200.6 No person shall promote in any advertisement or posting tanning exposure times, number of visits per week, or spacing of visits in excess of those in accordance with the manufacturer’s recommended exposure schedule.
- 1200.7 No person or facility shall advertise or promote tanning services that are misleading in any way.

1201 PROHIBITED ACTIVITIES*

- 1201.1 No tanning facility shall employ, in any capacity, any person who is under eighteen (18) years of age.
- 1201.2 No alcoholic beverages shall be served in a tanning facility.
- 1201.3 No person shall enter or remain in any part of a tanning facility while in possession of, consuming, or using any alcoholic beverage or drugs except pursuant to a prescription for such drugs. The licensee shall not permit any such person to enter or remain upon the premises.

CHAPTER 13 HEARING ADMINISTRATION

1300 ADMINISTRATIVE — NOTICE, REQUEST FOR HEARING, BASIS, AND TIME FRAME

- 1300.1 A person who receives a notice of hearing for an administrative remedy as specified in this chapter and elects to respond to the notice shall file a response to the notice within seven (7) calendar days after service.
- 1300.2 In response to an adverse administrative action, a licensee may submit a written request for a hearing to the Department within fifteen (15) calendar days of the receipt of notice of adverse action.
- 1300.3 A hearing request shall not stay a condemnation order as specified in Section 1102, or the imposition of a summary suspension as specified in Section 1108.

1301 ADMINISTRATIVE — HEARINGS ADMINISTRATION – CONTENTS OF RESPONSE TO HEARING NOTICE, OR HEARING REQUEST

- 1301.1 A response to a hearing notice shall be in writing and contain the following:

- (a) An admission or denial of each allegation of fact;
- (b) A statement as to whether the respondent waives the right to a hearing;
- (c) A statement of defense, mitigation, or explanation concerning any allegation of fact, if any;
- (d) A request to the Department for a settlement of the proceeding by consent agreement (if the Department provides this opportunity); and
- (e) The name and address of the respondent's legal counsel, if any.

1301.2 A request for a hearing shall be in writing and contain the following:

- (a) An admission or denial of each allegation of fact;
- (b) A statement of defense, mitigation, denial, or explanation concerning each allegation of fact; and
- (c) The name and address of the requester's legal counsel, if any.

1302 ADMINISTRATIVE – HEARINGS ADMINISTRATION, TIMELINESS

1302.1 The Department shall afford a hearing within seventy-two (72) hours after receiving a written request for a hearing from:

- (a) A licensee or person who is subject to a condemnation order as specified in Section 1102; or
- (b) A person whose license is summarily suspended as specified in Section 1108.

1302.2 A licensee or person who submits a request for a hearing as specified in Section 1302.1 may waive the expedited hearing in a written request to the Department.

CHAPTER 14 JUDICIAL REVIEW

1400 JUDICIAL REVIEW – APPEALS

1400.1 Any person aggrieved by a final order or decision of the Department may seek judicial review in accordance with the Department of Health Functions Clarification Act of 2002, effective October 3, 2001, as amended (D.C. Law 14-28; D.C. Official Code § 7-731(b) (2008 Repl.; 2012 Supp.)).

CHAPTER 99 DEFINITIONS

9900 GENERAL PROVISIONS

9900.1 The terms and phrases used in this title shall have the meanings set forth in this chapter, unless the text or context of the particular chapter, section, subsection, or paragraph provides otherwise.

9901 DEFINITIONS

9901.1 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

Condemnation order – a written administrative notice: (1) to prohibit the use of a specific tanning equipment or device, or (2) to remove a tanning equipment or device from service because the tanning equipment or device does not meet the requirements of these regulations, or the tanning equipment or device is not being operated in accordance with the requirements of these regulations.

Consent – signature on a form acknowledging warnings given by the tanning facility for a minor's use of ultraviolet tanning equipment or devices and agreeing to the use of required protective eyewear.

Consumer – any member of the public who is provided access to a tanning device in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning device as a condition or benefit of membership or access.

Critical item – a provision of these regulations that if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or an environmental health hazard. Critical items are denoted in these regulations with an asterisk (*).

Critical violation – a condition or practice that violates this Code and results in the production of a product that is adulterated, decomposed, misbranded, or unwholesome; or presents a threat to the health or safety of the consumer.

Department – The District of Columbia Department of Health.

EPA – the United States Environmental Protection Agency.

FDA – the United States Food and Drug Administration.

Guardian – an individual who, by legal appointment or by the effect of a written law, has been given custody of a minor or adult.

Imminent health hazard – a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operations to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

Individual – any human being.

Injury – bodily harm resulting from the use of a tanning device which requires medical attention.

Inspection – an official examination or observation, including but not limited to tests, surveys, and monitoring, to determine compliance with rules, regulations, Department orders, requirements, and conditions.

Licensee – the holder of a license to operate a tanning facility.

Minor – any individual less than eighteen (18) years of age.

Nuisance – anything which is injurious to health or offensive to the senses, so as to interfere with the comfort or endanger the health or safety of the public.

Operator – any individual designated by the licensee to operate or to assist and instruct the consumer in the operation and use of the tanning facility or tanning equipment.

Other compensation – the payment or exchange of goods, services, or anything of value for use of the tanning device or devices.

Override timer control – a separate electrical timer, switch, or similar device which may be used by the operator to start or stop the timer system for a tanning device. The term does not include electric panels which control the entire electrical system for a building or a portion of a building.

Outbreak – the occurrence of cases of a communicable disease in a community, geographic region, or particular population at a rate in excess of that which is normally expected in that community, geographic region, or particular population.

Pathogenic – the ability to produce disease.

Person – an association, a corporation, individual, partnership, trustee, government or governmental subdivision, or other legal entity.

Protective eyewear – suitable eyewear that protects the eye from ultraviolet radiation and allows adequate vision.

Phototherapy device – equipment that emits ultraviolet radiation and is used by health care professionals in the treatment of disease.

Personal hygiene items – articles such as bars of soap, bath gel, bubble bath, shampoo, conditioner, lotion, mouthwash, toothbrushes, toothpaste, cotton swabs, cotton balls, razors, shaving cream, emery boards, combs, brushes, tweezers, feminine hygiene products, powder, etc. which are used for personal cleanliness or grooming.

Public area – any area open to public view, whether indoors or outdoors to which the public has approved access, excluding individual tanning rooms, locker rooms, bathrooms, or restrooms at a tanning facility.

Safe level – not more than fifty (50) colonies of microorganisms per four square inches (4 sq. in.) of equipment surface.

Sanitization – the effective bactericidal treatment of surfaces of equipment and devices by an EPA or FDA registered product which provides a sufficient concentration of chemicals, allowing enough time to reduce the bacterial count, including pathogens, to a safe level. Chemical germicides that are registered with the EPA as hospital disinfectants, when used at recommended dilutions and directions, may be approved for sanitizing tanning devices.

Sunlamp product – any equipment used for the tanning of the skin that emits electromagnetic radiation with wavelengths in the air between two hundred nanometers (200 nm) and four hundred nanometers (400 nm), including but not limited to a sunlamp, ultraviolet lamp, tanning booth, facial unit, UVA wand, or tanning bed.

Tanning equipment or device – any equipment used during the process of skin tanning with a sunlamp product, such as any sunlamp product intended to induce skin tanning through the irradiation of any part of the living human body with ultraviolet radiation and any accompanying equipment, including but not limited to ballasts, starters, lamps, reflectors, acrylic shields, timers, and airflow cooling systems, comfort pillows and handrails.

Tanning facility – any location, place, area, structure, or business that either as a sole service or as part of a salon, health spa or any other facility provides access to sunlamps, ultraviolet lamps, or other equipment intended to induce skin tanning through the irradiation of any part of the human body for cosmetic or non-medical purposes. The term “tanning facility” does not include private residences if access to tanning devices is provided without charge.

Tanning Service Provider – any person or persons with a valid registration issued by the Mayor providing tanning equipment installation, servicing, or services, including but not limited to:

Any person or persons who:

- (a) Makes, sells, leases, transfers, lends, assembles, repairs, or installs tanning equipment or the components used in connection with such equipment;
- (b) Performs health physics consulting, such as calibration of equipment used to perform surveys of ultraviolet radiation and timer accuracy measurements, performs ultraviolet radiation output and timer accuracy measurements, or designs ultraviolet radiation safety programs or procedures;
- (c) Performs preventive maintenance or cleaning services, such as the cleaning of fans, acrylic, lamps, reflectors, and other components; or
- (d) Conducts training seminars for tanning facility personnel.

Timer – tanning device provided to terminate the exposure at a preset time interval.

Ultraviolet radiation – electromagnetic radiation with wavelengths in air between two hundred nanometers (200 nm) and four hundred nanometers (400 nm).

Unlimited – any number of visits implied or allowed in excess of the number of visits per week allowed by the tanning equipment manufacturer’s recommended exposure schedule.

OFFICE OF TAX AND REVENUE**NOTICE OF FINAL RULEMAKING**

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR) of the Office of the Chief Financial Officer, pursuant to the authority set forth in D.C. Official Code §§ 42-1117 (2010 Repl.) and 47-916 (2005 Repl.); Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019; P.L. 109-356, D.C. Official Code § 1-204.24d (2012 Supp.)); and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of the adoption of final rulemaking to amend Chapter 5, TAX ON RECORDATION OF DEEDS, of Title 9 of the District of Columbia Municipal Regulations (DCMR), by adding a new Section 527, Residential Properties; and Chapter 6, REAL PROPERTY TRANSFER TAX, of Title 9 of the DCMR, by adding a new Section 612, Residential Properties. The rules were previously published as proposed rulemaking in the *D.C. Register* on February 1, 2013 at 60 DCR 1194.

The amendments provide needed clarification on the District's position and consistent interpretation of the phrase "residential properties" as referenced by D.C. Official Code §§ 42-1103(a-4) and 47-903(a-4). The sections clearly identify what types of properties shall be considered residential properties for purposes of imposing the recordation tax pursuant to D.C. Official Code § 42-1103, and the transfer tax pursuant to D.C. Official Code § 47-903.

Two comments were received concerning the proposed rulemaking, and due consideration was given to the comments. OTR took final rulemaking action on March 4, 2013. This final rulemaking is identical to the published text of the proposed rulemaking. This final rulemaking shall become effective upon publication of this notice in the *D.C. Register*.

Chapter 5 of Title 9 DCMR is amended as follows:**A new Section 527, Residential Properties, is added to read as follows:**

527 The phrase "residential properties" as referenced in D.C. Official Code § 42-1103(a-4) shall have the same meaning as Class 1 Property, as defined by D.C. Official Code § 47-813(c-8)(2), or such other section under D.C. Official Code § 47-813 as may supersede D.C. Official Code § 47-813(c-8)(2).

Chapter 6 of Title 9 DCMR is amended as follows:**A new Section 612, Residential Properties, is added to read as follows:**

612 The phrase "residential properties" as referenced in D.C. Official Code § 47-903(a-4) shall have the same meaning as Class 1 Property, as defined by D.C. Official Code § 47-813(c-8)(2), or such other section under D.C. Official Code § 47-813 as may supersede D.C. Official Code § 47-813(c-8)(2).

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 12-17
Z.C. Case No. 12-17
Text Amendment – 11 DCMR)
(Amendments to the Reed-Cooke Overlay District)
February 25, 2013**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 (2008 Repl.)), hereby gives notice of the adoption of amendments to §§ 1400, 1401, and 1402 of the Zoning Regulations at Title 11 of the District of Columbia Municipal Regulations (DCMR). These provisions state the purposes of the Reed-Cooke Overlay District (Overlay), prohibit certain uses, limit the maximum height of buildings, and provide that a planned unit development (PUD) may not allow greater bulk and area permissions than permitted in the underlying zone.

The amendments permit the Commission to approve a PUD permitting a hotel use within an enlarged First Church Christ Scientist building currently located on Lot 872 of Square 2560, notwithstanding certain provisions of the current use and area limitations. The Commission also amended the Overlay's purposes to include the purpose of ensuring the preservation and adaptive reuse of the First Church of Christ Scientist building through a PUD process. The PUD application is the subject of Z.C. Case No. 11-17.

A public hearing was held on January 7, 2013. At the conclusion of the hearing, the Commission authorized the referral of the amendments, as revised,¹ to the National Capital Planning Commission and the publication of a notice of proposed rulemaking in the *DC Register*.

A notice of proposed rulemaking was published in the *D.C. Register* on January 18, 2013 at 60 DCR 413. Comments were received from Ms. Teresa Lopez, the Champlain Street Neighbors; Hotel Study Group; Mr. Ronald G. Gluck; Ms. Blanca Aquino; and Mr. Chris Otten. Because Ms. Aquino's comments were in Spanish, an English translation was provided for the Commission's use (Exhibit 23A). The comments generally criticized the PUD project and suggested that it was not consistent with the Comprehensive Plan. As such, these comments were not relevant to this petition, which only sought text amendments that would make it possible for the Commission to approve the PUD if it concluded that the applicant met the PUD standards.

By letter dated February 12, 2013, the NCPC Executive Director advised the Zoning Commission that NCPC, at its February 7, 2013 meeting, approved an action advising that "the

¹ The Commission advertised the two versions of the amendments. One version was the text as stated in the Petition while the second version included modification suggested by the Office of the Attorney General. At the time it took proposed action, the Commission chose to proceed with the OAG version. The Commission also accepted the proposal of the Office of Planning to amend the Overlay's purposes to include the purpose of ensuring the preservation and adaptive reuse of the First Church of Christ Scientist building through a planned unit development process.

proposed text amendment to the Overlay, relating to the Adams Morgan Church PUD, would not inconsistent with the Federal Elements of the Comprehensive Plan.”

At a properly noticed public meeting held on February 25, 2013, the Commission took final action to adopt the text amendments, making no changes to the text as proposed. At the same time, the Commission took final action to approve Z.C. Case No. 11-17. An order explaining the basis for that decision is published in this same edition of the *D.C. Register*.

Chapter 14, **REED-COOKE OVERLAY DISTRICT**, is amended as follows:

Section 1400, **GENERAL PROVISIONS (RC)**, § 1400.2, is amended by adding a new paragraph (d) so that the entire provision reads as follows:

- 1400.2 The purposes of the RC Overlay District shall be to:
- (a) Implement the objectives of the Reed-Cooke Special Treatment Area, which are to:
 - (1) Protect current housing in the area and provide for the development of new housing;
 - (2) Maintain heights and densities at appropriate levels; and
 - (3) Encourage small-scale business development that will not adversely affect the residential community;
 - (b) Ensure that new nonresidential uses serve the local community by providing retail goods, personal services, and other activities that contribute to the satisfaction of unmet social, service, and employment needs in the Reed-Cooke and Adams-Morgan community;
 - (c) Protect adjacent and nearby residences from damaging traffic, parking, environmental, social, and aesthetic impacts; and
 - (d) Ensure the preservation and adaptive reuse of the First Church of Christ Scientist building located on Lot 872 of Square 2560, through a planned unit development process.

Section 1401, **USE PROVISIONS (RC)**, is amended by adding a new § 1401.4 to read as follows:

- 1401.4 Notwithstanding § 1401.1, the Zoning Commission may approve a planned unit development that permits a hotel use integrating the First Church Christ Scientist building on a new lot created by combining Lots 872, 875, and 127 of Square 2560, and within such hotel, but only within the First Church Christ Scientist

building, permit a restaurant and bar use; provided that the Zoning Commission may also permit food and alcohol to be served in the enclosed pool, the meeting rooms, the guestrooms, and the rooftop area located in the proposed addition to the First Church Christ Scientist building/or so long as such addition and the First Church Christ Scientist building are being operated together as a hotel.

Section 1402, **HEIGHT AND BULK PROVISIONS (RC)**, is amended by adding a new § 1402.3, to read as follows:

1402.3 Notwithstanding § 1402.2, the Zoning Commission, as part of a planned unit development permitting a hotel integrating the First Church Christ Scientist building on a new lot created by combining Lots 872, 875, and 127 of Square 2560, may permit a building height on former Lots 875 and 127 not to exceed 72 feet measured from Euclid Street, and an overall building density not to exceed 3.99 FAR.

On January 7, 2013, at the conclusion of the public hearing upon the motion of Vice Chairman Cohen, as seconded by Commissioner Miller, the Zoning Commission took proposed action to **APPROVE** this petition as amended by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On February 25, 2013, upon the motion of Vice Chairman Cohen, as seconded by Commissioner Turnbull, the Zoning Commission took final action to **ADOPT** the amendments at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D.C. Register*; that is, on March 15, 2013.

OFFICE OF THE CITY ADMINISTRATOR

CORRECTED NOTICE OF FOURTH PROPOSED RULEMAKING

The City Administrator, on behalf of the Mayor, pursuant to the authority under Sections 5 and 18 of Mayor-Commissioner Regulation No. 74-39, effective December 13, 1974 (21 DCR 1285), as amended by the Vendors Regulation Amendments Act of 1978, effective June 30, 1978 (D.C. Law 2-82; 24 DCR 9293), Reorganization Plan No. 1 of 1986, effective August 21, 1986, the Vending Regulation Act of 2009, effective October 22, 2009 (D.C. Law 18-71; 56 DCR 6619), and Mayor's Order 2010-91, dated May 27, 2010; Sections 101(b), 2002(b), and 2 of the Omnibus Regulatory Reform Amendment Act of 1998, effective April 29, 1998 (D.C. Law 12-86; D.C. Official Code §§ 47-2851.04(c)(1), 47-2851.05(d), and 47-2851.12 (2005 Repl.; 2012 Supp.)); Sections 104 and 105 of the Department of Consumer and Regulatory Affairs Civil Infraction Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.04 and 2-1801.05 (2007 Repl.; 2012 Supp.)); and Mayor's Order 86-38, dated March 4, 1986, hereby gives notice of intent to adopt, in not less than twenty-one (21) days from the date of publication of this notice in the *D.C. Register*, or upon approval of this rulemaking by the Council of the District of Columbia, whichever occurs later, a new Chapter 5 (Vendors) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR), and amendments to Chapter 5 (Basic Business License Schedule of Fees) of DCMR Title 17 (Business, Occupations and Professions), and to Chapter 33 (Department of Consumer & Regulatory Affairs (DCRA) Infractions) of DCMR Title 16 (Consumers, Commercial Practices, and Civil Infractions).

The public comment period has been abbreviated due to the voluminous record of comments submitted to the previous three notices of proposed rulemaking, the forty-five (45) days of public comments for the previous notice of proposed rulemaking, and the need to expedite review of the proposed regulations by the Council of the District of Columbia.

This rulemaking amends vending regulations in order to achieve the safe, efficient, and effective management of vending throughout the District of Columbia. This rulemaking amends the name of the chapter and includes provisions governing vending licensure, vendor operations, the designation of sidewalk and roadway vending locations, public markets, vending development zones, street photography, and solicitation from the public space. In addition, the rulemaking amends fee for a Class C business license and establishes a schedule of fines for vending business license civil infractions.

The proposed regulations have been revised to: (1) clarify the requirements for Class C licensees to operate public markets; (2) clarify provisions of the Vending Site Permits; (3) define and identify provisions of the Mobile Roadway Vending Site Permit; (4) adjust the boundaries of the Central Vending Zone; (5) amend the authorized locations of roadway vending locations; (6) amend the design standards for vending carts and vending vehicles; (7) amend the requirements for littering and customer lines; (8) amend the provisions regarding roadway vending to clarify the distinction between stationary roadway vending and mobile roadway vending; (9) add new requirements for mobile roadway vending locations; (10) outline the assignment of mobile roadway vending locations; (11) amend the requirements establishing and discontinuing a

Vending Development Zone; (12) clarify provisions for soliciting in public space; (13) amend the requirements on accepting inventory or stock in the public space; (14) clarify the requirements of a vending depot; (15) amend the penalties provision; and (16) correct typographical errors, including the omission of provisions on street photography from the table of contents.

In order to allow for greater public transparency, the City Administrator has directed the Department of Consumer and Regulatory Affairs to coordinate the receipt of comments regarding all aspects of this rulemaking and to post on its website (<http://dcra.dc.gov>) a document which shows all changes made between the October 5, 2012, Third Notice of Proposed Rulemaking (59 DCR 11496) and this Corrected Fourth Notice of Proposed Rulemaking.

This Corrected Fourth Notice of Proposed Rulemaking supersedes the Third Notice of Proposed Rulemaking published at 59 DCR 11496 and the Fourth Notice of Proposed Rulemaking published at 60 DCR 2869.

All comments submitted in response to the Fourth Notice of Proposed Rulemaking (60 DCR 2869) will be added to the record of comments submitted in response to this Corrected Notice.

Chapter 5 (Vendors and Solicitors) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations is amended to read as follows:

CHAPTER 5: VENDORS

OFFICE OF THE CITY ADMINISTRATOR **1**

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SUBCHAPTER A: GENERAL PROVISIONS**500 PURPOSE**

- 500.1 The provisions of this chapter are issued pursuant to the authority under Sections 5 and 18 of Mayor-Commissioner Regulation No. 74-39, enacted December 13, 1974 (21 DCR 1285), as amended by the Vendors Regulation Amendments Act of 1978, effective June 30, 1978 (D.C. Law 2-82; 24 DCR 9293); Reorganization Plan No. 1 of 1986, effective August 21, 1986; the Vending Regulation Act of 2009, effective October 22, 2009 (D.C. Law 18-71; 56 DCR 6619); and Mayor's Order 2010-91, dated May 27, 2010.
- 500.2 This chapter shall regulate the implementation and execution of the vending and soliciting laws and related health, traffic, and safety concerns of the District and its citizens.
- 500.3 Nothing in this chapter is intended to interfere with the exercise of activities pursuant to the First Amendment Assemblies Act of 2004, effective April 13, 2005 (D.C. Law 15-352; D.C. Official Code §§ 5-331.01 *et seq.* (2008 Repl.)).

501 AGENCY RESPONSIBILITIES

- 501.1 The Director of the Department of Consumer and Regulatory Affairs (DCRA Director) shall be responsible for:
- (a) Coordinating all vending activities in the District of Columbia;
 - (b) Reviewing applications for, and issuing, Vending Business Licenses to vendors in the District;
 - (c) Distributing Vending Site Permits for Vending Locations approved by the District Department of Transportation (DDOT) Director (DDOT Director) as meeting the standards established by the DDOT Director, pursuant to §§ 525, 532, and 535;
 - (d) Enforcing this chapter's provisions, including the requirement that vendors vend only from their assigned Vending Locations; provided, that the Department of Health (DOH) Director (DOH Director) shall be responsible for the application and enforcement of Subtitle A (Food and Food Operations) of Title 25 of the District of Columbia Municipal Regulations (DCMR) to food vendors holding Class A and Class C Vending Business Licenses;
 - (e) Creating and maintaining a database of all vendors issued Vending Business Licenses, including any specific Vending Location assigned to each vendor;

- (f) Designating the categories of merchandise or services that may be vended under a specific class of Vending Business License and, where authorized under this chapter, designating specific categories of merchandise or services that may be vended at a specific Vending Location;
- (g) Establishing the authorized hours of operation for vendors and, where authorized under this chapter, establishing specific hours of operation at a specific Vending Location; and
- (h) Establishing standards regarding the design, maintenance, and operations of vendors and vending equipment.

501.2 The DDOT Director shall be responsible for:

- (a) Designating, modifying, and waiving, as appropriate, the standards for Vending Locations, pursuant to § 524, § 532, and §§ 533 through 537;
- (b) Approving locations on public space where public markets may be located and issuing public space permits for public markets on public space;
- (c) Assisting, as appropriate, with the enforcement of the provisions of this chapter.

501.3 The Metropolitan Police Department (MPD) shall be responsible for:

- (a) Enforcing District laws and regulations prohibiting unlicensed vending activities;
- (b) Enforcing any criminal laws, including laws regarding assault, harassment, and intimidation, in connection with vending; and
- (c) Assisting, as appropriate, with the enforcement of the provisions of this chapter.

501.4 The DOH Director shall be responsible for:

- (a) Designating the categories of food that may be vended in accordance with Subtitle A (Food and Food Operations) of Title 25 of the District of Columbia Municipal Regulations (DCMR);
- (b) Reviewing and either approving or denying applications for food vendors holding Class A and Class C Vending Business Licenses or other certificates of authority required in accordance with Chapter 37, Subtitle A (Food and Food Operations) of Title 25 of the DCMR for the vending of food from public or private spaces;
- (c) Inspecting food vending operations and vending depots in accordance with Subtitle A (Food and Food Operations) of Title 25 of the DCMR; and

- (d) Enforcing the application of Subtitle A (Food and Food Operations) of Title 25 of the DCMR to food vendors.

501.5 The Fire and Emergency Medical Services Department (FEMS) shall be responsible for:

- (a) Reviewing and issuing permits for the use of open flame and propane gas in food vending operations and conducting fire safety-related inspections of vending businesses; and
- (b) Enforcing District laws and regulations pertaining to any operational permits required under Subtitle H (Fire Code Supplement) of Title 12 of the DCMR.

**SUBCHAPTER B: VENDING LICENSES, PERMITS,
AND OTHER AUTHORIZATIONS**

502 GENERAL LICENSURE REQUIREMENTS

502.1 No person shall vend any product, service, or merchandise from public space in the District of Columbia without obtaining and maintaining a valid:

- (a) Basic business license for vending (Vending Business License) issued by the DCRA Director, except as provided by § 502.3;
- (b) Vending Site Permit assigned pursuant to § 508 if the vendor is located on a public sidewalk, pursuant to § 530 if the vendor is a Stationary Roadway Vendor, or pursuant to § 533 if the vendor is a Mobile Roadway Vendor.

502.2 In addition to the requirements specified in § 501, no person shall vend food from public or private space in the District of Columbia without obtaining and maintaining a valid:

- (a) Health inspection certificate issued by the DOH Director;
- (b) Food Protection Manager Certificate issued by the Conference of Food Protection Standards for Accreditation of Food Protection Manager Certification Programs in accordance with § 203.1 of Subtitle A (Food and Food Operations) of Title 25 of the DCMR;
- (c) Certified Food Protection Manager Identification Card issued by DOH in accordance with § 203 of Subtitle A (Food and Food Operations) of Title 25 of the DCMR; provided, that a vendor without such certification may employ a person who holds a valid:
 - (1) Food Protection Manager Certificate issued by the Conference of Food Protection Standards for Accreditation of Food Protection Manager Certification Programs in accordance with § 203.3 of

Subtitle A (Food and Food Operations) of Title 25 of the DCMR; and

- (2) Certified Food Protection Manager Identification Card issued by DOH in accordance with § 203 of Subtitle A (Food and Food Operations) of Title 25 of the DCMR;
- (d) Required food safety analyses and plans in accordance with § 3701 of Subtitle A (Food and Food Operations) of Title 25 of the DCMR; and
- (e) Permit from FEMS, if the vendor uses propane gas, open flames, or solid fuels such as wood pellets or charcoal.

502.3 The licenses and permits required under §§ 502.1 and 502.2 shall be subject to any conditions imposed by the District agency issuing or assigning the license, permit, or certificate.

502.4 A Vending Business License shall not be required for:

- (a) Employees of licensed vendors, but such employees shall be required to obtain and display at all times a Vendor Employee Identification Badge pursuant to § 564.1;
- (b) Persons selling agricultural goods, farm products, or other related products of their own raising or production, or that are locally raised or produced, at a public market licensed under § 541;
- (c) A person under eighteen (18) years of age, if the person holds a valid permit or other form of authorization issued by the District of Columbia Public Schools and is accompanied by a licensed vendor;
- (d) Certain vending activities authorized by the First Amendment Assemblies Act of 2004, effective April 13, 2005 (D.C. Law 15-352; D.C. Official Code §§ 5-331.01 *et seq.* (2008 Repl.)); or
- (e) Persons authorized to sell products, merchandise, food, or services at a licensed or permitted Special Event, as that term is defined in § 599.

502.5 A Vending Business License is issued only to the licensee and may not be sold, transferred, conveyed, or otherwise assigned to any other person.

503 VENDING BUSINESS LICENSE: CLASSES OF LICENSES

503.1 The DCRA Director shall issue the following classes of Vending Business Licenses:

- (a) Class A Licenses – A Class A Vending Business License shall authorize a person to vend food, other than food prohibited from public or private

space under § 503.3(a) or (m); provided, that the vendor holds any food licenses and certificates required under Subtitle A (Food and Food Operations) of Title 25 of the DCMR;

- (b) Class B Licenses – A Class B Vending Business License shall authorize a person to vend merchandise, other than food and merchandise prohibited from public space under § 503.3. For the purposes of this subsection, the term “merchandise” shall include non-hazardous and non-controlled cut flowers, dried flowers, and potted plants;
- (c) Class C Licenses – A Class C Vending Business License shall authorize a person to manage public markets on public or private space for the sale of agricultural goods and other farm products, or other food as designated by the DOH Director, and other non-food merchandise or services as designated by the DCRA Director; and
- (d) Class D Licenses – A Class D Vending Business License shall authorize a person to vend services from public space, including photography, shoe shining, and other such services as the DCRA Director designates.

503.2 No person shall vend any items other than those allowed under the particular class of Vending Business License issued to the person.

503.3 No vendor shall sell or public market manager allow the sale of the following categories of merchandise or food:

- (a) Live animals;
- (b) Power tools;
- (c) Luggage exceeding six inches by eighteen inches by twenty inches (6 in. x 18 in. x 20 in.);
- (d) Rugs and carpets exceeding the surface area of the vendor’s vending cart or stand;
- (e) Household appliances, including refrigerators, microwave ovens, dishwashers, stoves, and televisions with screen sizes greater than seven inches (7 in.);
- (f) Alcoholic beverages or other alcoholic items for consumption;
- (g) Any drug, medicine, chemical, or compound or combination thereof restricted by the District of Columbia Pharmacist and Pharmacy Regulation Act of 1980, effective September 16, 1980 (D.C. Law 3-98; D.C. Official Code §§ 47-2885.01 *et seq.* (2005 Repl.));

- (h) A controlled substance as defined in § 102(4) of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.02(4) (2009 Repl.));
- (i) Drug paraphernalia, as the term is defined in § 2(3) of the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1101(3) (2012 Supp.));
- (j) Any merchandise that is pornographic or obscene;
- (k) Any counterfeit merchandise;
- (l) Any adulterated food, as the term is defined in § 9901 of Title 25, Subtitle A (Food and Food Operations) of the DCMR;
- (m) Categories of foods that are determined by DOH to be not “generally recognized as safe” (GRAS) as interpreted by the United States Food and Drug Administration (FDA); and
- (n) Any plants, other than non-controlled and non-hazardous cut flowers, dried flowers, and potted plants.

504 VENDING BUSINESS LICENSE: APPLICATION AND FEES

504.1 An applicant for a Vending Business License shall meet all applicable business licensing criteria, shall file an application with DCRA, and shall pay all applicable fees.

504.2 Application for a Vending Business License shall be made on a form prescribed by DCRA and shall include the following information:

- (a) The name and address of the owner of the vending business;
- (b) The class(es) of Vending Business License being sought;
- (c) A description of the type of merchandise or service to be offered for sale;
- (d) A description of the vending vehicle, vending cart, or vending stand to be used (not applicable to Class C license applicants), including an eight inch by ten inch (8 in. x 10 in.) color photograph of such vehicle, cart, or stand, if available at the time of application or when approved pursuant to § 570 as part of a vending development zone;
- (e) An indication of the Vending Locations the applicant wishes to occupy, in their order of preference (not applicable to Class C license applicants);
- (f) A Clean Hands Certification;

- (g) A copy of the applicant's certificate of registration, issued by the Office of Tax and Revenue, designating the applicant's sales and use tax number;
- (h) If the applicant is not a resident of the District of Columbia:
 - (1) The name and address of a registered agent upon whom service of process and other legal notices may be delivered; or
 - (2) A designation of the Mayor as the person who may accept service of process as well as other legal notices directed to the applicant;
- (i) If the applicant is applying for a Class A or Class C license, the applicant shall complete all forms required by:
 - (1) DCRA, as specified in §§ 504.1 and 504.2; and
 - (2) DOH, as specified in § 502.2;
- (j) A valid telephone number;
- (k) A passport-sized color photograph of the applicant, if the applicant himself or herself will be vending; and
- (l) Any additional information required by the DCRA Director or by the DOH Director for Class A or Class C licenses.

504.3 The DCRA Director shall not issue a Vending Business License if:

- (a) The applicant's Vending Business License has been revoked within the past one (1) year;
- (b) The application for renewal of a Vending Business License has been denied under § 507; or
- (c) The applicant has been:
 - (1) Convicted for vending without a license;
 - (2) Issued a notice of infraction by DCRA for vending without a license;
 - (3) Convicted for a criminal offense committed while vending with a license;
 - (4) Issued a notice of infraction by DOH for vending without a food vending license; or
 - (5) Failed to pay fines for violations of Subtitle A (Food and Food Operations) of Title 25 of the DCMR issued by DOH.

- 504.4 An applicant whose license application is rejected pursuant to §§ 504.3(a), (b), or (c)(1) through (c)(3) shall not be eligible to receive a Vending Business License until one (1) year after the date of the revocation, denial, arrest, ticket, or notice of infraction.
- 504.5 An applicant must be at least eighteen (18) years of age to be eligible to be issued a Vending Business License; provided, that such age restriction shall not preclude an individual from becoming an employee of a duly licensed Vendor and being issued a Vendor Employee Identification Badge pursuant to § 564.
- 504.6 In addition to the application and endorsement fees for a basic business license, the fees charged for Vending Business Licenses shall be in the amounts listed in Chapter 5 (Basic Business License Schedule of Fees) of Title 17 of the DCMR.

505 VENDING BUSINESS LICENSE: ISSUANCE

- 505.1 Within forty-five (45) days of filing a complete application for a Vending Business License, the applicant shall be notified by the DCRA Director of the issuance or denial of the license.
- 505.2 If the application is approved, the DCRA Director shall issue a Vending Business License to the applicant; provided, that if the applicant has applied for a Class A or Class C Vending Business License, no license shall be issued by the DCRA Director until the applicant has received all necessary licenses, permits, and authorizations from DOH and any other District agency.
- 505.3 The Vending Business License shall include the vendor's name, the class of license, and the date of expiration.
- 505.4 Except for Class A and Class C Food Vending Licenses, all Vending Business Licenses shall be valid for two (2) years from the date of issuance, unless the DCRA Director designates a shorter time period in writing.
- 505.5 If the application is denied, the DCRA Director shall follow the procedures set forth in § 507.
- 505.6 The DCRA Director and DOH Director shall return an incomplete application to the applicant without either approving or denying the application.
- 505.7 A Vending Business License will not be issued until a Vending Location has been designated pursuant to §§ 538-540.

506 VENDING BUSINESS LICENSE: EXPIRATION AND RENEWAL

- 506.1 Each Vending Business License shall be valid for the period designated on the license, unless the license is earlier revoked, suspended, or seized.

- 506.2 Not less than forty-five (45) days before the expiration of a Vending Business License, the licensee shall submit a renewal application to DCRA on a form prescribed by the DCRA Director, and by the DOH Director if vending food, as specified in § 504.2(i).
- 506.3 No application to renew a Vending Business License shall be approved if the applicant does not hold the valid licenses, permits, and registrations required for an initial applicant for a Vending Business License under § 504.
- 506.4 If the license renewal application is not approved, the DCRA Director shall follow the procedures set forth in § 507.
- 506.5 Upon the expiration of a person's Vending Business License, the DCRA Director may seize that person's Vending Business License, Vending Site Permit, health inspection certificate, and FEMS propane and open flame permit.

507 VENDING BUSINESS LICENSE: DENIAL, SUSPENSION, REVOCATION, AND SEIZURE

- 507.1 The DCRA Director may revoke or suspend a Vending Business License, or deny an application for the issuance or renewal of a Vending Business License, for any of the following:
- (a) Fraud, misrepresentation, or false statements contained in the license application;
 - (b) Fraud, misrepresentation, or false statements made in connection with the selling of any product, service, or merchandise, as determined by the DCRA Director, or the misrepresentation or adulteration of food, as determined by the DOH Director;
 - (c) Violation of any District law or regulation governing the operation of the vending business, including, but not limited to:
 - (1) The possession or sale of counterfeit merchandise; or
 - (2) The offering for sale of illegal goods, substances, or services;
 - (d) The vendor is vending at a location other than the vendor's assigned Vending Location;
 - (e) Violations of the Clean Hands Certification requirements;
 - (f) Fraud committed against the District government, such as failure to pay required sales and use taxes, or attempting to transfer a Vending Business License, Vending Site Permit, or a Mobile Roadway Vending Site Permit to another person in violation of §§ 502.5, 510.4, and 514.3, respectively;

- (g) The vendor is found to have committed the same violation of the following sections of this chapter six (6) or more times in a continuous twelve (12) month period:
 - (1) §§ 544 through 554;
 - (2) §§ 556 through 568; or
 - (3) § 571; or
- (h) The vendor is found to have violated § 555 of this chapter.

507.2 The DCRA Director may summarily suspend and seize a Vending Business License, without prior notice to the vendor or an opportunity to be heard, for:

- (a) The possession, sale, or offering for sale of counterfeit merchandise;
- (b) The sale of adulterated food, as the term is defined in § 9901 of Subtitle A of Title 25 of the DCMR, when a determination is made by the DOH Director that the food is adulterated;
- (c) Failure to provide all required certificates of authority upon demand by an authorized District government official;
- (d) Any activity or condition that constitutes a threat to the public health or safety, including the health or safety of the vendor; or
- (e) Failure to pay fines assessed by the Office of Administrative Hearings for violations of Subtitle A of Title 25 of the DCMR issued by DOH.

507.3 Except for a summary suspension or seizure pursuant to § 507.2, upon the suspension or revocation of a vendor's Vending Business License under this section, the DCRA Director shall provide the vendor with written notice of that action and of the vendor's right to appeal to the Office of Administrative Hearings.

507.4 If a person's Vending Business License is summarily suspended pursuant to § 507.2, or pursuant to DCMR Title 25, Subtitle A, § 4409 by the DOH Director for Food Code violations, or if a person's application for initial issuance or renewal of a license is denied, the person may appeal the summary suspension or denial to the Office of Administrative Hearings.

507.5 A notice issued by the DCRA Director under this section shall be mailed by first-class U.S. mail. If the notice establishes a specific date for a hearing, the notice shall be mailed at least ten (10) business days prior to the date of the hearing.

- 507.6 Upon revocation or suspension, including summary suspension, of a person's Vending Business License, the DCRA Director may immediately seize the person's Vending Business License and Vending Site Permit.
- 507.7 A vendor shall surrender his or her Vending Business License and Vending Site Permit within seven (7) days from the date of the receipt of the notice in § 507.5.
- 507.8 If a person's Vending Business License is revoked or suspended (including summarily suspended) under this section, the DCRA Director shall provide notice of the revocation or suspension to the Office of Tax and Revenue, DDOT, MPD, and, if the business holds a Class A License, to DOH.
- 507.9 If a person's Vending Business License is summarily suspended or seized pursuant to § 507.2(e) and in accordance with DCMR Title 25, Subtitle A, § 4714, the DOH Director shall provide notice of the summary suspension or seizure to DCRA, the Office of Tax and Revenue, DDOT, and MPD.

508 VENDING SITE PERMIT: GENERAL REQUIREMENTS AND FEES

- 508.1 No person may vend from the public space in the District of Columbia without a Vending Site Permit issued by the DCRA Director pursuant to this chapter; provided, that a holder of a Class C Vending License may manage vendors from public space upon the issuance of a public space permit to the holder by DDOT and Mobile Roadway Vending vehicles may vend pursuant to § 533.
- 508.2 A Vending Site Permit shall not be required for:
- (a) Persons selling agricultural goods, farm products, or other related products of their own raising or production, or that are locally raised or produced, at a public market licensed and, if required, permitted pursuant to this chapter; or
 - (b) Persons authorized to sell products, merchandise, food, or services at a licensed or permitted Special Event.
- 508.3 The Vending Site Permit shall authorize the permittee to occupy a specific Vending Location for the purpose of vending.
- 508.4 A vendor may vend only at the assigned Vending Location stated on his or her Vending Site Permit.
- 508.5 In addition to the authorities cited in § 524, the DCRA Director, the DDOT Director, or MPD may eliminate a Vending Location without prior notice for public safety or transportation reasons, construction requirements, or Special Event operations.

- 508.6 The DCRA Director may revoke a Vending Site Permit and require the previously permitted vendor to vacate his or her Vending Location or relocate to another Vending Location pursuant to § 512.
- 508.7 The annual fee for a Vending Site Permit for sidewalk vending locations shall be six hundred dollars (\$600).
- 508.8 The fee for a monthly Vending Site Permit in the Nationals Park Vending Zone shall be one hundred twenty-five dollars (\$125) per monthly lottery, as described in § 529.
- 508.9 The fee for a monthly Vending Site Permit for stationary roadway vending at Vending Locations designated by § 530 shall be four hundred and fifty dollars (\$450) per monthly lottery.
- 508.10 The annual fee for a Mobile Roadway Vending site permit shall be three hundred dollars (\$300) as described in § 533.

509 VENDING SITE PERMIT: APPLICATION

- 509.1 A person shall submit an application for a Vending Site Permit to the DCRA Director with the person’s application for an initial Vending Business License.
- 509.2 A licensed vendor may submit an application for a Vending Site Permit to the DCRA Director separately from an application for a Vending Business License if:
 - (a) The vendor is seeking to change his or her Vending Location; or
 - (b) The vendor is seeking to add an additional Vending Location.
- 509.3 The application for a Vending Site Permit shall be made on a form prescribed by the DCRA Director and shall include such information and documents as may be required by the DCRA Director and the District agency issuing or assigning the license, permit, or certificate.

510 VENDING SITE PERMIT: ISSUANCE

- 510.1 Upon the submission of a completed application, the DCRA Director shall issue a Vending Site Permit if:
 - (a) The applicant holds:
 - (1) A valid Vending Business License; or
 - (2) A current receipt for payment of all relevant Vending Business License fees;

- (b) The applicant has identified and applied for a Vending Site Permit for a Vending Location that meets DDOT standards, pursuant to §§ 524-528, or through the creation of a Vending Development Zone, pursuant to § 570;
- (c) A vendor shall have a right of preference for the issuance of a Vending Site Permit for a Vending Location if:
 - (1) The individual received a site permit for the same location pursuant to the District of Columbia Department of Transportation and Department of Consumer and Regulatory Affairs Vending Consolidation of Public Space and Licensing Authorities Temporary Act of 2006, effective March 8, 2007 (D.C. Law 16-252; 54 DCR 3037);
 - (2) The individual has vended in the location continuously and exclusively without sale, assignment, transfer, or other conveyance of the location to another vendor or individual, whether sold, assigned, transferred, or conveyed for money or anything else of value; and
 - (3) The vendor is vending in a location that is in compliance with this chapter;
- (d) The merchandise, food, or services is authorized to be vended at the available Vending Location;
- (e) The applicant provides a Clean Hands Certification; and
- (f) The applicant has paid all the required fees.
- (g) The DCRA Director may use a lottery to assign Vending Site Permits for designated unoccupied Vending locations, if necessary.

510.2 No more than one (1) vendor may occupy an assigned Vending Location, unless the DCRA Director specifies on the Vending Site Permit that the Vending Location is subject to a shared site agreement between several licensed vendors.

510.3 The Vending Site Permit shall delineate the specific site, zone, dates and times of validity.

510.4 A Vending Site Permit is issued only to the permittee and may not be sold, transferred, conveyed, or otherwise assigned to any other person.

511 VENDING SITE PERMIT: EXPIRATION AND RENEWAL

511.1 A Vending Site Permit, other than for stationary roadway vending or Nationals Park Vending Zone vending sites, shall be issued for a term of one (1) year unless a shorter time period is designated in writing by the DCRA Director.

- 511.2 A vendor shall apply for renewal of the vendor's annual Vending Site Permit, other than for stationary roadway vending or Nationals Park Vending Zone vending sites, at least forty-five (45) days prior to the expiration date on the permit.
- 511.3 Upon expiration of a vendor's Vending Site Permit and in the absence of an application to renew the permit, the Vending Site Permit shall no longer be valid and the vendor shall immediately surrender the Vending Site Permit to the DCRA Director. If the Vending Site Permit is not immediately surrendered, the DCRA Director may seize the expired Vending Site Permit. If the surrendered or seized Vending Site Permit is the only permit associated with the Vending Business License, the vendor's Vending Business License shall be put on hold pursuant to § 568.
- 512 VENDING SITE PERMIT: DENIAL, SUSPENSION, REVOCATION, AND SEIZURE**
- 512.1 The DCRA Director may summarily revoke or suspend a Vending Site Permit at any time, without prior notice to the vendor or an opportunity to be heard, if:
- (a) The Vending Location associated with the Vending Site Permit is not eligible for authorization as a Vending Location under this chapter or any other applicable law or regulation;
 - (b) The DDOT Director has eliminated the Vending Location associated with the Vending Site Permit;
 - (c) The Vending Location, or the vending-related activities at the Vending Location, constitute a threat to public safety; or
 - (d) The vendor is operating in a manner that is in violation of the terms or conditions of the Vending Site Permit or in violation of this chapter, including an attempt to transfer, convey, or sell the Vending Site Permit to another person.
- 512.2 Except for a summary revocation or suspension pursuant to § 512.1, upon the suspension or revocation of a vendor's Vending Site Permit, the DCRA Director shall provide the vendor with written notice of that action and of the vendor's right to appeal to the Office of Administrative Hearings, and may immediately seize the Vending Site Permit and Vending Business License, pursuant to § 511.3.
- 512.3 If the surrendered or seized Vending Site Permit is the only permit associated with the Vending Business License, the vendor's Vending Business License shall be put on hold pursuant § 568.

- 512.4 If a vendor’s Vending Site Permit is summarily suspended or revoked by the DCRA Director pursuant to § 512.1, the vendor may appeal the summary suspension or revocation to the Office of Administrative Hearings.
- 512.5 A notice issued by the DCRA Director under this section shall be mailed by first-class U.S. mail. If the notice establishes a specific date for a hearing, the notice shall be mailed at least ten (10) days prior to the date of the hearing.
- 512.6 A vendor’s Vending Site Permit may be suspended or revoked if the vendor has not conducted any vending for six (6) months at the Vending Location associated with the Vending Site Permit; provided, that this provision shall not apply to a vendor who has placed his or her Vending Business License on hold pursuant to § 568.
- 512.7 If a vendor’s Vending Business License is suspended or revoked, any Vending Site Permit associated with that Vending Business License shall also be suspended or revoked.
- 512.8 If a person’s Vending Site Permit is revoked or suspended (including summarily suspended) under this section, the DCRA Director shall provide notice of the revocation or suspension to DDOT, MPD, and, if the business holds a Class A License, to DOH.

513 MOBILE ROADWAY VENDING SITE PERMIT: APPLICATION

- 513.1 A person seeking to vend pursuant to § 533 shall submit an application for a Mobile Roadway Vending (MRV) Site Permit to the DCRA Director with the person’s application for an initial Vending Business License.
- 513.2 The application for a MRV Site Permit shall be made on a form prescribed by the DCRA Director and shall include such information and documents as may be required by the DCRA Director and the District agency issuing or assigning the license, permit, or certificate.

514 MOBILE ROADWAY VENDING SITE PERMIT: ISSUANCE

- 514.1 Upon the submission of a completed application, the DCRA Director shall issue a MRV Site Permit if:
 - (a) The applicant holds
 - (1) A valid Vending Business License; or
 - (2) A current receipt for payment of all relevant Vending Business fees;
 - (b) The applicant provides a Clean Hands Certification; and

(c) The applicant has paid all the required fees.

514.2 The MRV Site Permit shall permit MRV vehicles to vend from legal parking spaces in public space.

514.3 A MRV Site Permit is issued only to the permittee and may not be sold, transferred, conveyed, or otherwise assigned to any other person.

515 MOBILE ROADWAY VENDING SITE PERMIT: EXPIRATION AND RENEWAL

515.1 A MRV Site Permit shall be issued for a term of one (1) year unless another time period is designated in writing by the DCRA Director.

515.2 A MRV shall apply for renewal of the MRV Site Permit at least forty-five (45) days prior to the expiration date on the permit.

515.3 Upon expiration of a MRV Site Permit and in the absence of an application to renew the permit, the MRV Site Permit shall no longer be valid and the vendor shall immediately surrender the MRV Site Permit to the DCRA Director. If the MRV Site Permit is not immediately surrendered, the DCRA Director may seize the expired MRV Site Permit. If the surrendered or seized MRV Site Permit is the only permit associated with the Vending Business License, the vendor's Vending Business License shall be put on hold pursuant to § 568.

516 MOBILE ROADWAY VENDING SITE PERMIT: DENIAL, SUSPENSION, REVOCATION, AND SEIZURE

516.1 The DCRA Director may summarily revoke or suspend a MRV Site Permit at any time, without prior notice to the vendor or an opportunity to be heard, if the vendor is operating in a manner that is in violation of the terms or conditions of the MRV Site Permit or in violation of this chapter, including an attempt to transfer, convey, or sell the MRV Site Permit to another person.

516.2 Except for a summary revocation or suspension pursuant to § 516.1, upon the suspension or revocation of a vendor's MRV Site Permit, the DCRA Director shall provide the vendor with written notice of that action and of the vendor's right to appeal to the Office of Administrative Hearings and may immediately seize the MRV Site Permit and Vending Business License, pursuant to § 515.3.

516.3 If the surrendered or seized MRV Site Permit is the only permit associated with the Vending Business License, the vendor's Vending Business License shall be put on hold pursuant § 568.

516.4 If a vendor's MRV Site Permit is summarily suspended or revoked by the DCRA Director under this section, the vendor may appeal the summary suspension or revocation to the Office of Administrative Hearings.

516.5 A notice issued by the DCRA Director under this section shall be mailed by first-class U.S. mail. If the notice establishes a specific date for a hearing, the notice shall be mailed at least ten (10) days prior to the date of the hearing.

516.6 If a vendor’s Vending Business License is suspended or revoked, any MRV Site Permit associated with that Vending Business License shall also be suspended or revoked.

516.7 If a person’s MRV Site Permit is revoked or suspended (including summarily suspended) under this section, the DCRA Director shall provide notice of the revocation or suspension to DDOT, MPD, and, if the business holds a Class A License, to DOH.

517 HEALTH INSPECTION CERTIFICATE: GENERAL

517.1 No person shall vend food in the District unless DOH has issued a valid health inspection certificate for the vending vehicle, cart, or stand, or public market from which the food is vended.

517.2 A health inspection certificate shall be valid for six (6) months or until the time of the next inspection, whichever is earlier.

517.3 A person shall not be issued a Class A or Class C Vending Business License, or a Vending Site Permit for a Class A or Class C Vending Business License, until the person receives a health inspection certificate from DOH.

518 HEALTH INSPECTION CERTIFICATE: APPLICATION

518.1 A person shall apply for a health inspection certificate with the information and documents required by, and pursuant to the procedures of, the DOH Director. The DOH Director may require that a vendor submit to DOH the business address of the supplier of all prepared foods that the person intends to vend as required in Chapter 37, Subtitle A (Food and Food Operations) of Title 25 of the DCMR.

519 HEALTH INSPECTION CERTIFICATE: ISSUANCE

519.1 The DOH Director shall review and either approve or disapprove an application for the issuance of a health inspection certificate.

519.2 A health inspection certificate shall not be granted until after:

- (a) An inspection of the vending vehicle, cart, or stand, or public market, and all equipment and utensils used in the food vending operation;
- (b) An inspection of the storage facilities for the vehicle, cart, or stand, or public market, all equipment and utensils, and the food supplies;

- (c) A review and approval of the preparation and holding procedures for the food, including overnight refrigeration and overall compliance with Chapter 37, Subtitle A of Title 25 of the DCMR; and
- (d) DOH has issued its approval of any plans for food safety code compliance in accordance with Subtitle A of Title 25 of the DCMR.

519.3 The DOH Director shall include the vehicle tag number of the vending vehicle or cart on the health inspection certificate.

520 HEALTH INSPECTION CERTIFICATE: SUMMARY SUSPENSION

520.1 A health inspection certificate, and the associated Class A and Class C Vending Business License, may be summarily suspended by the DOH Director for Food Code violations pursuant to DCMR Title 25, Subtitle A, § 4409.

520.2 If a person’s health inspection certificate is revoked or suspended, including summarily suspended under this section, the DOH Director shall provide notice of the revocation or suspension to DCRA, DDOT, and MPD.

521 FOOD PROTECTION MANAGER CERTIFICATE

521.1 No person shall operate a Class A vending business unless that person, or an individual employed by that person, holds a valid:

- (a) Food Protection Manager Certificate issued by the Conference of Food Protection Standards for Accreditation of Food Protection Manager Certification Programs, in accordance with DCMR Title 25, Subtitle A, § 203.1; and
- (b) DOH-issued a Certified Food Protection Manager Identification Card, in accordance with DCMR Title 25, Subtitle A, § 203.3.

521.2 Application for a food protection manager certificate and certified food manager identification card shall be made to DOH on forms and in the manner prescribed by the DOH Director.

522 PROPANE AND OPEN FLAME PERMIT

522.1 No person shall operate a vending vehicle, cart, or stand that uses propane, open flames, or solid fuels such as wood pellets or charcoal, without meeting the following standards:

- (a) The person shall hold a valid propane or open flame permit from FEMS; and
- (b) A vending vehicle, cart, or stand that uses propane cylinders in excess of sixty pounds (60 lbs.) shall have received the approval of the Fire Marshal.

522.2 Application for a propane or open flame permit shall be made to FEMS on a form and in the manner prescribed by FEMS or the Fire Marshal.

523 HOOD SUPPRESSION SYSTEM APPROVAL

523.1 No person shall operate a vending vehicle, cart, or stand that includes a deep fryer (or other cooking equipment that would require a hood suppression system) unless the vehicle, cart, or stand is protected with a hood suppression system, that has been inspected and approved by FEMS.

SUBCHAPTER C: VENDING LOCATIONS

PART 1: GENERAL

524 VENDING LOCATIONS: GENERAL

524.1 The DDOT Director shall approve Vending Locations that meet the standards for locations on streets, sidewalks, and other public spaces where vending may be permitted pursuant to §§ 525, 532, 533 and 535. Proposed sidewalk Vending Locations may be submitted to the DDOT Director by DCRA or as part of a vendor’s Vending Site Permit application.

524.2 The DDOT Director may eliminate a previously designated Vending Location if:

- (a) The DDOT Director determines that the designated Vending Location is no longer in compliance with District law or regulations;
- (b) The DDOT Director determines that the operation of a vending business at the location constitutes a threat to the public safety; or
- (c) The DDOT Director determines that the interests of the District or the public would be better served if the public space occupied by the Vending Location is designated for another use or for open space.

524.3 The DDOT Director may eliminate a Vending Location assigned to a vendor under § 510.1; provided, that the vendor shall have the opportunity, within thirty (30) days of the elimination of the Vending Location, to identify a location that the vendor believes meets the criteria under §§ 524-528; provided further, that if the identified location is approved by the DDOT Director, the vendor shall be issued a new Vending Site Permit for the new Vending Location by the DCRA Director at no cost to the vendor.

524.4 The DDOT Director shall re-evaluate a Vending Location when a vendor issued a Vending Site Permit under § 510.1(c) ceases to vend at that Vending Location. In its re-evaluation, the DDOT Director shall utilize the provisions of § 524.2.

PART 2: SIDEWALK VENDING LOCATIONS**525 VENDING LOCATIONS: SIDEWALK VENDING**

525.1 All sidewalk Vending Locations shall be in accordance with the following standards:

- (a) Sidewalk Vending Locations shall only be located along streets within:
 - (1) The Central Vending Zone;
 - (2) Neighborhood Vending Zones;
 - (3) The Old Georgetown Vending Zone; and
 - (4) The Nationals Park Vending Zone.
- (b) No more than three (3) sidewalk Vending Locations shall be designated on any side of any city block;
- (c) No sidewalk Vending Location shall be designated:
 - (1) In front of a predominately residential building outside the Central Vending Zone;
 - (2) On the median strip of a divided roadway, unless the strip is intended for use as a pedestrian mall or plaza;
 - (3) Along the length of a Metrobus Stop Zone, a commuter bus zone, an intercity bus zone, or other curbside zone specifically designated and demarcated as being for transit use;
 - (4) In a location that is on or that impedes free access to service or ventilation grates or covers;
 - (5) On a restricted street designated in § 526.3; or
 - (6) Within any area under the exclusive jurisdiction of the United States Park Police, the United States Capitol Police, or any other agency of the United States government;
- (d) Within the Central Vending Zone, sidewalk vending shall be prohibited on sidewalks unless:
 - (1) A ten foot (10 ft.) clear passageway is maintained;
 - (2) The street is specifically exempted in § 526; or
 - (3) The DDOT Director waives this restriction pursuant to § 525.2;

- (e) Outside the Central Vending Zone, sidewalk vending shall be prohibited on sidewalks unless:
 - (1) A seven foot (7 ft.) clear passageway is maintained;
 - (2) The sidewalk is specifically exempted in §§ 527, 528, or 529; or
 - (3) The DDOT Director waives this restriction pursuant to § 525.2;
- (f) No sidewalk Vending Location shall be designated within:
 - (1) Twenty feet (20 ft.) of the driveway entrance to a police or fire station;
 - (2) Ten feet (10 ft.) of any other driveway;
 - (3) Ten feet (10 ft.) of an alley;
 - (4) Ten feet (10 ft.) of another sidewalk Vending Location;
 - (5) Twenty feet (20 ft.) of the street-level entry to a Metrorail escalator;
 - (6) Ten (10 ft.) of the street-level door to a Metrorail elevator;
 - (7) A marked loading zone, entrance zone, or parking space designated for diplomatic parking, or other curbside location restricted for certain vehicles or uses;
 - (8) One hundred feet (100 ft.) of the entrance to a District or federal courthouse, or within such greater distance as may be designated by the DDOT Director upon the written request of the courthouse administrator;
 - (9) Ten feet (10 ft.) of a fire hydrant;
 - (10) One hundred feet (100 ft.) of the main entrance to a building that is predominantly used for a primary or secondary school, unless operations at the Vending Location are restricted to non-school days and time periods on school days that begin at least thirty (30) minutes after school has been dismissed at the end of the school day. The DDOT Director may increase the minimum distance that a sidewalk Vending Location may be located from a specific school upon the written request of the Chancellor of the District of Columbia Public Schools or the principal of that school;
 - (11) Twelve feet (12 ft.) of any crosswalk when on the vehicle approach side of the Vending Location and crosswalk;

- (12) Five feet (5 ft.) from any crosswalk when not on the vehicle approach side of the Vending Location and crosswalk; and
- (13) Five feet (5 ft) from a building's marked fire control room.

525.2 Upon the request of the DCRA Director, the DDOT Director may waive the minimum passageway requirement of §§ 525.1(d) or 525.1(e) if the DDOT Director determines there will not be an adverse impact on, among other things, pedestrian circulation and public safety. The DCRA Director shall note on the Vending Site Permit the issuance of the waiver by the DDOT Director.

525.3 The passageway required by §§ 525.1(d) and 525.1(e) shall be measured from the closest allowable projection of the vending cart or stand to the nearest building, private property line, or interruption of the public space by a public amenity or fixture, whichever is nearest.

526 VENDING LOCATIONS: CENTRAL VENDING ZONE

526.1 The Central Vending Zone shall have the following boundaries:

- (a) Beginning at the northeast corner of Massachusetts Avenue, NW, at 11th Street, NW;
- (b) East along the north curb of L Street, NW, to the west curb of mid-block alley between 9th Street, NW, and 10th Street, NW;
- (c) North along the center of the alley to the south curb of M Street, NW;
- (d) East along the south curb of M Street, NW, to the west curb of 9th Street, NW;
- (e) North along the west curb of 9th Street, NW, to the north curb of N Street, NW;
- (f) East along the north curb of N Street, NW, to the east curb of 6th Street, NW;
- (g) South along the east curb of 6th Street, NW, to the north curb of Massachusetts Avenue, NW;
- (h) East along the north curb of Massachusetts Avenue, NW, to the west curb of North Capitol Street, NW;
- (i) North along the west curb of North Capitol Street, NW, to the north curb of Q Street, NW;
- (j) East along the north curb of Q Street, NE, to the west curb of Eckington Place, NE;

- (k) North along the west curb of Eckington Place, NE, to the north curb of R Street, NE;
- (l) East along the north curb of R Street, NE, in a straight line to the north curb of New York Avenue, NE;
- (m) East along the north curb of New York Avenue, NE, to the east curb of 9th Street, NE;
- (n) South along the east curb of 9th Street, NE, to the east curb of Brentwood Parkway, NE;
- (o) South along the east curb of Brentwood Parkway, NE, to the east curb of 6th Street, NE;
- (p) South along the east curb of 6th Street, NE, to the south curb of M Street, NE;
- (q) West along the south curb of M Street, NE, to the east curb of 5th Street, NE;
- (r) South along the east curb of 5th Street, NE, to the south curb of H Street, NE;
- (s) West along the south curb of H Street, NE, to the east curb of 3rd Street, NE;
- (t) South along the east curb of 3rd Street, NE, to the north curb of Independence Avenue, SE;
- (u) West along the north curb of Independence Avenue, SE, to the east curb of 2nd Street, SE;
- (v) South along the east curb of 2nd Street, SE, to the south curb of C Street, SE;
- (w) West along the south curb of C Street, SE, to the east curb of 1st Street, SE;
- (x) South along the east curb of 1st Street, SE, to the south curb of D Street, SE;
- (y) West along the south curb of D Street, SE, to the east curb of New Jersey Avenue, SE;
- (z) South along the east curb of New Jersey Avenue, SE, to the south curb of Interstate 695;

- (aa) East along the south curb of Interstate 695 to east curb of Water Street, SE;
- (bb) South from the east curb of Water Street, SE, in a straight line to the west bank of the Anacostia River, SE;
- (cc) West along the north bank of the Anacostia River, SE, to the east curb of 11th Street, SE;
- (dd) South along the east curb of 11th Street, SE, to the east curb of Martin Luther King, Jr. Avenue, SE;
- (ee) South along the east curb of Martin Luther King, Jr. Avenue, SE, to the north curb of Suitland Parkway, SE;
- (ff) North along Suitland Parkway, SE, to the South Capitol Street Bridge;
- (gg) West along the South Capitol Street Bridge to the east bank of the Anacostia River, SE;
- (hh) South along the west bank of the Anacostia River, SE, to the east bank of the Potomac River, SW;
- (ii) North along the east bank of the Potomac River, SW, to the west curb of the Potomac Parkway to Rock Creek Parkway;
- (jj) North along Rock Creek Parkway in a straight line to the north curb of N Street, NW;
- (kk) East along the north curb of N Street, NW, to the west curb of New Hampshire Avenue, NW;
- (ll) Northeast along the west curb of New Hampshire Avenue, NW, to the west curb of 20th Street, NW;
- (mm) North along the west curb of 20th Street, NW, to the north curb of P Street, NW;
- (nn) East along the north curb of P Street, NW, to west curb of Dupont Circle, NW;
- (oo) North along the west curb of Dupont Circle, NW, to the north curb of Massachusetts Avenue, NW; and
- (pp) East along the north curb of Massachusetts Avenue, NW, to the northeast corner of Massachusetts Avenue, NW and 11th Street, NW.

526.2

The following streets in the Central Vending Zone shall be exempt from the requirement that a minimum ten foot (10 ft.) clear passageway be maintained;

provided, that each of the following vending sites shall maintain a seven foot (7 ft.) clear passageway:

- (a) East and west sides of 19th Street, NW, between Constitution Avenue, NW and C Street, NW;
- (b) East and west sides of 20th Street, NW, between Constitution Avenue, NW and C Street, NW; and
- (c) East and west sides of 21st Street, NW, between Constitution Avenue, NW and C Street, NW.

526.3

Except for Vending Locations approved as part of a Vending Development Zone under § 570, no sidewalk Vending Locations shall be designated on the following streets in the Central Vending Zone:

- (a) East side of 2nd Street, NE, between K Street, NE, and East Capitol Street;
- (b) East side of 10th Street, NW, between E Street, NW, and Pennsylvania Avenue, NW (Federal Bureau of Investigation building);
- (c) East side of 12th Street, NW, between Constitution Avenue, NW, and Pennsylvania Avenue, NW (Internal Revenue Service building (southern half of block), and Old Post Office building (northern half of block));
- (d) East side of 12th Street, NW, between I Street, NW, and K Street, NW;
- (e) East side of 12th Street, NW, between New York Avenue, NW, and G Street, NW;
- (f) East side of 13th Street, NW, between L Street, NW, and Massachusetts Avenue, NW;
- (g) East side of 14th Street, NW, between Constitution Avenue, NW, and D Street, NW (John A. Wilson Building, Ronald Reagan Building and International Trade Center, and Commerce Department building);
- (h) East side of 22nd Street, NW, between F Street, NW, and G Street, NW;
- (i) East side of 24th Street, NW, between Pennsylvania Avenue, NW, and L Street, NW;
- (j) East side of 24th Street, NW, between Virginia Avenue, NW, and G Street, NW;
- (k) East side of 25th Street, NW, between H Street, NW, and I Street, NW;
- (l) East side of 26th Street, NW, between I Street, NW, and K Street, NW;
- (m) East and west sides of Delaware Avenue, SW, between M Street, SW, and H Street, SW;

- (n) East and west sides of Half Street, SE, between M Street, SE, and I Street, SE;
- (o) East and west sides of Half Street, SW, between M Street, SW, and I Street, SW;
- (p) East and west sides of New Hampshire Avenue, NW, between Virginia Avenue, NW, and I Street, NW;
- (q) East and west sides of 1st Street, SW, between Independence Avenue, SW, and C Street, SW;
- (r) East and west sides of 1st Street, SW, between M Street, SW, and mid-block between M Street and N Street, SW;
- (s) East and west sides of 2nd Street, SE, between M Street, SE, and D Street, SE;
- (t) East and west sides of 3rd Street, SW, between M Street, SW, and I Street, SW;
- (u) East and west sides of 5th Street, NW, between H Street, NW, and K Street, NW;
- (v) East and west sides of 6th Street, SW, between M Street, SW, and G Street, SW;
- (w) East and west sides of 8th Street, NW, between E Street, NW, and D Street, NW;
- (x) East and west sides of 9th Street, NW, between G Street, NW, and H Street, NW;
- (y) East and west sides of 21st Street, NW, between C Street, NW, and E Street, NW (State Department building);
- (z) East and west sides of 23rd Street, NW, between C Street, NW, and E Street, NW (State Department building);
- (aa) East and west sides of 23rd Street, NW, between L Street, NW, and Washington Circle, NW;
- (bb) East and west sides of 25th Street, NW, between I Street, NW, and K Street, NW;
- (cc) East and west sides of 25th Street, NW, between L Street, NW, and M Street, NW;
- (dd) East and west sides of 6th Street, NW, between F Street, NW, and H Street, NW;
- (ee) East and west sides of 7th Street, NW, between F Street, NW, and H Street, NW;
- (ff) East and west sides of 3rd Street, NW, between F Street, NW, and G Street, NW;

- (gg) East and west sides of 4th Street, NW, between F Street, NW, and G Street, NW;
- (hh) North side of D Street, NW, between 3rd Street, NW, and 4th Street, NW;
- (ii) North side of D Street, NW, between 5th Street, NW, and 9th Street, NW;
- (jj) North side of E Street, NW, between 1st Street, NW, and 2nd Street, NW;
- (kk) North side of E Street, NW, between 3rd Street, NW, and 4th Street, NW;
- (ll) North side of F Street, NW, between 21st Street, NW, and 22nd Street, NW;
- (mm) North side of N Street, NW, between 21st Street, NW, and New Hampshire Avenue, NW;
- (nn) North side of Pennsylvania Avenue, NW, between 9th Street, NW, and 10th Street, NW;
- (oo) North side of Virginia Avenue, NW, between 23rd Street, NW, and 24th Street, NW;
- (pp) North and south sides of C Street, SE, between South Capitol Street, SE, and 3rd Street, SE;
- (qq) North and south sides of C Street, SW, between 6th Street, SW, and South Capitol Street, SW;
- (rr) North and south sides of C Street, NW, between 21st Street, NW, and 23rd Street, NW;
- (ss) North and south sides of Connecticut Avenue, NW, between N Street, NW, and Dupont Circle, NW;
- (tt) North and south sides of D Street SE/SW between 4th Street, SW, and 3rd Street, SE;
- (uu) North and south sides of E Street, SW, between South Capitol Street and Interstate 395;
- (vv) North and south sides of E Street, SW, between 2nd Street, SW, and 7th Street, SW;
- (ww) North and south sides of E Street, NW, between 5th Street, NW, and 14th Street, NW;
- (xx) North and south sides of E Street, NW, between 21st Street, NW, and 23rd Street, NW;
- (yy) North and south sides of F Street, NW, between New Jersey Avenue, NW, and North Capitol Street, NW;
- (zz) North and south sides of H Street, NW, between 6th Street, NW, and Massachusetts Avenue, NW;
- (aaa) North and south sides of H Street, NW, between New Hampshire Avenue, NW, and 24th Street, NW;

- (bbb) North and south sides of I Street, SE, in a straight line between 3rd Street, SE, and South Capitol Street, SE;
- (ccc) North and south sides of I Street, SW, between 7th Street, SW, and South Capitol Street, SW;
- (ddd) North and south sides of I Street, NW, between 13th Street, NW, and 16th Street, NW;
- (eee) North and south sides of I Street, NW, between 26th Street, NW, and New Hampshire Avenue, NW;
- (fff) North and south sides of Jefferson Place, NW, between 18th Street, NW, and 19th Street, NW;
- (ggg) North and south sides of K Street SE/SW between Half Street, SW, and 3rd Street, SE;
- (hhh) North and south sides of K Street, SW, between Wesley Place, SW, and Delaware Avenue, SW;
- (iii) North and south sides of K Street, NW, between 25th Street, NW, and 26th Street, NW;
- (jjj) North and south sides of L Street SE/SW in a straight line between 3rd Street, SW, and 3rd Street, SE;
- (kkk) North and south sides of L Street, NW, between 24th Street, NW, and 25th Street, NW;
- (lll) North and south sides of M Street, NW, between 21st Street, NW, and Connecticut Avenue, NW;
- (mmm) North and south sides of M Street, NW, between 23rd Street, NW, and 28th Street, NW;
- (nnn) North and south sides of Massachusetts Avenue, NW, between Thomas Circle, NW, and 11th Street, NW;
- (ooo) North and south sides of N Street, NW, between 18th Street, NW, and Bataan Street, NW;
- (ppp) North and south sides of N Street, NW, between 21st Street, NW, and 25th Street, NW;
- (qqq) North and south sides of Sunderland Place, NW, between 19th Street, NW, and 20th Street, NW;
- (rrr) North and south sides of F Street, NW, between 6th Street, NW, and 7th Street, NW (Verizon Center);
- (sss) North and south sides of H Street, NW, between 6th Street, NW, and 7th Street, NW (Verizon Center);
- (ttt) North and south sides of G Street, NW, between 3rd and 4th Streets, NW;

- (uuu) North and south sides of F Street, NW, between 3rd Street, NW, and 4th Street, NW;
- (vvv) South side of C Street, SW, between 12th Street, SW, and 14th Street, SW;
- (www) South side of G Street, NW, between 7th Street, NW, and 9th Street, NW;
- (xxx) South side of G Street, NW, between 23rd Street, NW, and 24th Street, NW;
- (yyy) South side of H Street, NW, between 23rd Street, NW, and 24th Street, NW;
- (zzz) South side of K Street, NW, between 24th Street, NW, and 25th Street, NW;
- (aaaa) West side of 5th Street, NW, between D Street, NW, and E Street, NW;
- (bbbb) West side of 9th Street, NW, between E Street, NW, and Pennsylvania Avenue, NW;
- (cccc) West side of 17th Street, NW, between Constitution Avenue, NW, and C Street, NW;
- (dddd) West side of 17th Street, NW, between D Street, NW, and E Street, NW;
- (eeee) West side of 21st Street, NW, between New Hampshire Avenue, NW, and N Street, NW; and
- (ffff) West side of 23rd Street, NW, between Virginia Avenue, NW, and G Street, NW.

527**VENDING LOCATIONS: OLD GEORGETOWN VENDING ZONE**

527.1

Except as specifically provided in § 527.2, no vendor shall vend on any sidewalk on public space within the area known as Old Georgetown enclosed by the following continuous boundary:

- (a) Bounded on the east by Rock Creek and Potomac Parkway from the Potomac River to the north boundary of Dumbarton Oaks Park;
- (b) Bounded on the north by the north boundary of Dumbarton Oaks Park, Whitehaven Street, NW, and Whitehaven Parkway, NW, to 35th Street, NW, south along the middle of 35th Street, NW, to Reservoir Road, NW, west along the middle of Reservoir Road, NW, to Glover-Archbold Park;
- (c) Bounded on the west by Glover-Archbold Park from Reservoir Road, NW, to the Potomac River; and
- (d) Bounded on the south by the Potomac River and the Rock Creek and Potomac Parkway.

527.2 The streets listed in this subsection shall constitute the Old Georgetown Vending Zone within which the DDOT Director may approve sidewalk Vending Locations; provided, that sidewalk Vending Locations shall be allowed only:

- (a) Within fifty feet (50 ft.) of the intersections of the cross streets with Wisconsin Avenue, NW;
- (b) On the sidewalks designated in paragraph (d);
- (c) In the directions from Wisconsin Avenue, NW, designated in paragraph (d), unless they are sites or markets authorized by the creation of a Vending Development Zone; and
- (d) At the following locations:
 - (1) Northern sidewalk of P Street, NW, east of Wisconsin Avenue, NW;
 - (2) Northern sidewalk of P Street, NW, west of Wisconsin Avenue, NW;
 - (3) Northern sidewalk of O Street, NW, east of Wisconsin Avenue, NW;
 - (4) Northern sidewalk of O Street, NW, west of Wisconsin Avenue, NW;
 - (5) Northern sidewalk of Dumbarton Street, NW, east of Wisconsin Avenue, NW;
 - (6) Southern sidewalk of Dumbarton Street, NW, east of Wisconsin Avenue, NW;
 - (7) Northern sidewalk of N Street, NW, west of Wisconsin Avenue, NW (two (2) Vending Locations);
 - (8) Southern sidewalk of N Street, NW, west of Wisconsin Avenue, NW;
 - (9) Southern sidewalk of N Street, NW, east of Wisconsin Avenue, NW;
 - (10) Northern sidewalk of Prospect Street, NW, west of Wisconsin Avenue, NW; and
 - (11) Southern sidewalk of Prospect Street, NW, west of Wisconsin Avenue, NW.

528 VENDING LOCATIONS: NEIGHBORHOOD VENDING ZONES

528.1 The Neighborhood Vending Zones shall consist of the following streets:

(a) Capitol Hill area:

- (1) H Street, NE, from 3rd Street, NE, to 15th Street, NE (Zones C-2-A, C-2-B, and C-3-A);
- (2) Pennsylvania Avenue, SE, from 2nd Street, SE, to Potomac Avenue, SE (Zones C-2-A and C-2-B);
- (3) 8th Street, SE, from D Street, SE, to I Street, SE (Zone C-2-A);
- (4) 15th Street, NE, from A Street, NE, to East Capitol Street (Zone C-2-A);
- (5) East Capitol Street from 19th Street, SE, to 22nd Street, SE (Zone GOV): The following restriction applies:
 - (A) Only the south side of East Capitol Street shall be included in the Neighborhood Vending Zone;

(b) Far Northeast and Southeast area:

- (1) Benning Road, NE/SE, from 44th Street, SE, to A Street, SE (Zone C-3-A);
- (2) Branch Avenue, SE, from Q Street, SE, to S Street, SE (Zone C-1);
- (3) Central Avenue, SE, from 56th Street, SE, to Southern Avenue, SE (Zone C-1);
- (4) Dix Street, NE, from 60th Street, NE, to Eastern Avenue, NE (Zone C-2-A);
- (5) Minnesota Avenue, NE, from Blaine Street, NE, to Grant Street, NE (Zone C-3-A);
- (6) Nannie Helen Burroughs Avenue, NE, from 51st Street, NE, to Division Avenue, NE (Zone C-1);
- (7) Nannie Helen Burroughs Avenue, NE, from Minnesota Avenue, NE, to 48th Street, NE (Zone C-1 and C-M-1);
- (8) Pennsylvania Avenue, SE, from Alabama Avenue, SE, to Fort Davis Street, SE (Zone C-2-A); and

- (9) Pennsylvania Avenue, SE, from Fairlawn Avenue, SE, to 27th Street, SE (Zone C-2-A);
- (c) Far Southeast and Southwest area:
- (1) Martin Luther King, Jr. Avenue, SE, from Good Hope Road, SE, to Morris Road, SE (Zone C-3-A);
 - (2) Good Hope Road, SE, from Martin Luther King, Jr. Avenue, SE, to 13th Street, SE (Zone C-3-A);
 - (3) Naylor Road, SE, from Alabama Avenue, SE, to Denver Street, SE (Zone C-3-A);
 - (4) Naylor Road, SE, from 30th Street, SE, to Southern Avenue, SE (Zone C-1);
 - (5) Alabama Avenue, SE, from 15th Street, SE, to Stanton Road, SE (Zone C-1 and C-2-B);
 - (6) Livingston Road, SE, from 3rd Street, SE, to South Capitol Street, SE (Zone C-3-A);
 - (7) Martin Luther King, Jr. Avenue, SE, from 4th Street, SE, to Milwaukee Place, SE (Zone C-2-A);
 - (8) Martin Luther King, Jr. Avenue, SE, from Upsal Street, SE, to Halley Place, SE (Zone C-1);
 - (9) South Capitol Street from Martin Luther King, Jr. Avenue, SE, to Chesapeake Street, SE (Zone C-2-A);
 - (10) Savannah Street, SE, from 22nd Street, SE, to 23rd Street, SE (Zone C-1); and
 - (11) Wheeler Road, SE, from Wahler Place, SE, to Barnaby Terrace, SE (Zone C-1);
- (d) Mid-city area:
- (1) Mount Pleasant Street, NW, from Irving Street, NW, to Park Road, NW (Zone C-2-A);
 - (2) 7th Street, NW, from Florida Avenue, NW, to T Street, NW (Zone C-2-B);
 - (3) 14th Street, NW, from Columbia Road, NW, to Meridian Place, NW (Zones C-2-A and C-3-A);

- (4) 6th Street, NW, from Fairmont Street, NW, to College Street, NW (Zone R-5-B). The following restrictions apply:
 - (A) One (1) vendor in the first one hundred feet (100 ft.) of 6th Street, NW, south of the Fairmont Street, NW, curb;
 - (B) Two (2) vendors in the next fifty feet (50 ft.) of 6th Street, NW; and
 - (C) One (1) vendor in the next twenty-five feet (25 ft.) of 6th Street, NW.
- (5) 14th Street, NW from S Street, NW, to Florida Avenue, NW (Zones CR and C-3-A);
- (6) Columbia Road, NW, from Belmont Road, NW, to Mozart Place, NW (Zone C-2-B);
- (7) Georgia Avenue, NW, from Euclid Street, NW, to Rock Creek Church Road, NW (Zone C-2-A);
- (8) Rhode Island Avenue, NW, from T Street, NW, to 1st Street, NW (Zone C-2-A); and
- (e) Near Northwest area:
 - (1) Florida Avenue, NW, from Rhode Island Avenue, NW, to North Capitol Street (Zone C-2-A);
 - (2) P Street, NW, from 23rd Street, NW, to Dupont Circle, NW (Zones C-2-A, C-2-C, and C-2-B);
 - (3) 20th Street, NW, from R Street, NW, to S Street, NW (Zone C-3-B). The following restriction applies:
 - (A) Only the west side of 20th Street, NW, shall be included in the Neighborhood Vending Zone;
 - (4) 17th Street, NW, from Q Street, NW, to Riggs Place, NW (Zone C-2-A);
 - (5) 14th Street, NW, from N Street, NW, to S Street, NW (Zone C-3-A);
 - (6) 9th Street, NW, from M Street, NW, to P Street, NW (Zone C-2-A);
 - (7) 7th Street, NW, from M Street, NW, to N Street, NW (Zone C-2-B); and

- (8) 7th Street, NW, from O Street, NW, to Q Street, NW (Zone C-2-A);
- (f) Rock Creek East area:
- (1) Georgia Avenue, NW, from Rock Creek Church, NW, to Varnum Street, NW (Zones C-2-A and C-3-A);
 - (2) Blair Road, NW, from Whittier Street, NW, to 5th Street, NW (Zones C- M-1 and C-2-A);
 - (3) Georgia Avenue, NW, from Fern Place, NW, to Eastern Avenue, NW (Zone C-2-A);
 - (4) Georgia Avenue, NW, from Gallatin Street, NW, to Van Buren Street, NW (Zones C-2-A and C-3-A);
 - (5) Riggs Road, NE, from South Dakota Avenue, NE, to Chillum Place, NE (Zone C-2-A);
 - (6) Upshur Street, NW, from 3rd Street, NW, to Rock Creek Church Road, NW (Zone C-1); and
 - (7) 14th Street, NW, from Buchanan Street, NW, to Decatur Street, NW (Zones C-1 and C-M-1);
- (g) Rock Creek West area:
- (1) Connecticut Avenue, NW, from Fessenden Street, NW, to Nebraska Avenue, NW (Zone C-1);
 - (2) Connecticut Avenue, NW, from Livingston Street, NW, to Oliver Street, NW (Zone C-1);
 - (3) Connecticut Avenue, NW, from Macomb Street, NW, to Porter Street, NW (Zone C-2-A);
 - (4) Connecticut Avenue, NW, from Van Ness Street, NW, to Albemarle Street, NW (Zone C-3-A);
 - (5) Connecticut Avenue, NW, from Calvert Street, NW, to 24th Street, NW (Zones C-2-A and C-2-B);
 - (6) Connecticut Avenue, NW, from Hawthorne Street, NW, to Jewett Street, NW (Zone C-2-A);
 - (7) MacArthur Boulevard, NW, at Cathedral Avenue, NW, (Zone C-1);

- (8) MacArthur Boulevard, NW, from Arizona Avenue, NW, to Dana Place, NW (Zone C-2-A);
 - (9) MacArthur Boulevard, NW, from V Street, NW, to U Street, NW (Zone C-2-A);
 - (10) Massachusetts Avenue, NW, from 48th Street, NW, to 49th Street, NW (Zone C-2-A);
 - (11) New Mexico Avenue, NW, from Embassy Park Drive, NW, to Lowell Street, NW (Zone C-1);
 - (12) Ordway Street, NW, from alley east of Connecticut Avenue, NW, to alley west of Connecticut Avenue, NW (Zone C-2-A). The following restriction applies:
 - (A) Only the south side of Ordway Street, NW, shall be included in the Neighborhood Vending Zone;
 - (13) Wisconsin Avenue, NW, from Albemarle Street, NW, to Brandywine Street, NW;
 - (14) Wisconsin Avenue, NW, from Harrison Street, NW, to Western Avenue, NW (Zones C-2-A, C-2-B, and C-3-A);
 - (15) Wisconsin Avenue, NW, from Macomb Street, NW, to Idaho Avenue, NW. The following restriction applies:
 - (A) Only the west side of Wisconsin Avenue, NW, shall be included in the Neighborhood Vending Zone;
 - (16) Wisconsin Avenue, NW, from Rodman Street, NW, to 40th Street, NW (Zones C-1, C-2-A, and C-2-B); and
 - (17) 24th Street, NW, from Calvert Street, NW, to Connecticut Avenue, NW (Zone C-2-A); and
- (h) Upper Northeast area:
- (1) Allison Street, NE, from Michigan Avenue, NE, to Eastern Avenue, NE (Zone C-1);
 - (2) Bladensburg Road, NE, from L Street, NE, to Mount Olivet Road, NE (Zone C-2-A);
 - (3) Florida Avenue, NE, from West Virginia Avenue, NE, to Montello Avenue, NW (Zone C-2-A);

- (4) Mount Olivet Road, NE, from West Virginia Avenue, NE, to Trinidad Avenue, NE (Zone C-2-A);
- (5) Rhode Island Avenue, NE, from Monroe Street, NE, to Eastern Avenue, NE (Zone C-2-A);
- (6) Rhode Island Avenue, NE, from 4th Street, NE, to 10th Street, NE (Zones C-2-C, C-3-A, C-M-2, and M);
- (7) Rhode Island Avenue, NE, from 13th Street, NE, to 18th Street, NE (Zone C-2-A);
- (8) 12th Street, NE, from Irving Street, NE, to Randolph Street, NE (Zones C-1 and C-2-A); and
- (9) Benning Road, NE, from Bladensburg Road, NE, to Oklahoma Avenue, NE (Zones C-2-A and C-2-B).

529 VENDING LOCATIONS: NATIONALS PARK VENDING ZONE

- 529.1 The streets listed in this section shall constitute the Nationals Park Vending Zone, in which sidewalk Vending Locations shall be allowed on the following streets and in the following numbers:
- (a) East side of First Street, SE, between N Street, SE, and N Place, SE – two (2) Vending Locations;
 - (b) East side of First Street, SE, between N Place, SE, and O Street, SE – two (2) Vending Locations;
 - (c) West side of Half Street, SE, between M Street, SE, and N Street, SE – seven (7) Vending Locations; and
 - (d) North side of N Street, SE, between Half Street, SE, and Van Street, SE – three (3) Vending Locations.
- 529.2 The DDOT Director may, at his or her discretion, approve additional sidewalk Vending Locations in the Nationals Park Vending Zone in addition to those listed in § 529.1.
- 529.3 The DCRA Director shall assign the Vending Locations in the Nationals Park Vending Zone by lottery.
- 529.4 Applicants may apply electronically, via designated computer kiosks, for each monthly lottery by visiting the DCRA Business Licensing Center, which shall maintain information regarding the application process and qualifications.

529.5 Winners of each monthly lottery shall be notified by phone, first-class mail, or electronic mail, and by being listed on the DCRA website (<http://dcra.dc.gov>).

PART 3: STATIONARY ROADWAY VENDING LOCATIONS

530 VENDING LOCATIONS: STATIONARY ROADWAY VENDING LOCATIONS: GENERAL

530.1 A Stationary Roadway Vendor must vend from a fixed location with a valid Vending Site Permit in an assigned Roadway Vending Location as designated in § 531;

530.2 A Stationary Roadway Vendor may not vend in any roadway location other than the authorized Roadway Vending Location for which the Stationary Roadway Vendor holds a valid Vending Site Permit.

531 VENDING LOCATIONS: STATIONARY ROADWAY VENDING LOCATIONS: AUTHORIZED LOCATIONS

531.1 The authorized Stationary Roadway Vending Locations shall be on the streets and in the numbers set forth as follows:

- (a) 400 Independence Avenue, SW (National Air & Space Museum) – Location numbers one (1) through six (6);
- (b) 600 Independence Avenue, SW (National Air & Space Museum) – Location numbers seven (7) through twelve (12);
- (c) 700 Independence Avenue, SW (Hirshhorn Museum) – Location numbers thirteen (13) through eighteen (18);
- (d) 1400 Constitution Avenue, NW (National Museum of American History) – Location numbers nineteen (19) and twenty (20);
- (e) 1200 Independence Avenue, SW (Freer and Sackler Gallery) – Location numbers twenty-one (21) through twenty-two (22);
- (f) 600 Constitution Avenue, NW (National Gallery of Art) – Location numbers twenty-three (23) through twenty-six (26);
- (g) 700 Constitution Avenue, NW (National Gallery of Art) – Location numbers twenty-seven (27) through thirty (30);
- (h) 900 Constitution Avenue, NW (National Museum of Natural History) – Location numbers thirty-one (31) through thirty-five (35);
- (i) 1200 Constitution Avenue, NW (National Museum of American History) – Location numbers thirty-six (36) through forty-one (41);

- (j) 200 15th Street, NW (Ellipse East) – Location numbers forty-two (42) through fifty (50);
- (k) 400 15th Street, NW (Ellipse East) – Location numbers fifty-one (51) through fifty-nine (59);
- (l) 200 17th Street, NW (Ellipse West) – Location numbers sixty (60) through sixty-seven (67);
- (m) 400 17th Street, NW (Ellipse West) – Location numbers sixty-eight (68) through sixty-nine (69);
- (n) 500 17th Street, NW (State Place) – Location numbers seventy (70) through seventy-two (72);
- (o) 1500 Constitution Avenue, NW – Location numbers seventy-three (73) through seventy-four (74); and
- (p) 2100 H Street, NW – Location numbers seventy-five (75) through seventy-six (76).

531.2 The DDOT Director shall designate specific portions of the streets listed in § 531.1, in the numbers set forth in § 531.1, as authorized Stationary Roadway Vending Locations.

532 VENDING LOCATIONS: STATIONARY ROADWAY VENDING LOCATIONS: ADDITIONAL LOCATIONS

532.1 The DDOT Director, in consultation with the DCRA Director, may designate Stationary Roadway Vending Locations in addition to those authorized in § 531.1; provided, that no additional Stationary Roadway Vending Location shall be designated:

- (a) Within areas under the exclusive jurisdiction of the United States Park Police, the United States Capitol Police, or any other agency of the United States government;
- (b) Within a loading zone, entrance zone, parking space designated for diplomatic parking, or other curbside zone restricted for certain vehicles or uses;
- (c) On a snow emergency route designated under § 4024 of Chapter 40 (Traffic Signs and Restrictions at Specific Locations) of Title 18 (Vehicles and Traffic) of the DCMR;
- (d) Within forty feet (40 ft.) of an intersection;

- (e) Along the length of a Metrobus Stop Zone, a commuter bus zone, an intercity bus zone, or other curbside zone specifically designated and demarcated as being for transit use;
- (f) Within forty feet (40 ft.) of the driveway entrance to a police or fire station, or within twenty feet (20 ft.) of any other driveway;
- (g) Within twenty feet (20 ft.) of an alley;
- (h) Within forty feet (40 ft.) of any crosswalk;
- (i) Between the south side of Independence Avenue and the north side of Constitution Avenue, bounded by Rock Creek Parkway on the west and 4th Street NE/SE on the east; or
- (j) Five feet (5 ft) from a building's marked fire control room.

532.2 Upon the designation of additional Stationary Roadway Vending locations, a lottery shall be conducted by the DCRA Director to assign these Stationary Roadway Vending locations. Any Stationary Roadway Vending Locations not assigned during this lottery shall be included in the lottery conducted pursuant to § 539.

PART 4: MOBILE ROADWAY VENDING LOCATIONS

533 VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS: GENERAL

- 533.1 A Mobile Roadway Vending (MRV) vehicle operating in public space under this section shall have either an individual holding a valid Class A, Class B, or Class D Vending Business License or an individual holding a valid Vendor Employee Identification Badge, issued pursuant to § 564, inside the vehicle at all times while the vehicle is in operation.
- 533.2 A MRV Site Permit shall be required for each MRV vehicle, whether vending from a designated MRV location or any legal parking space in the District.
- 533.3 A MRV vehicle must be legally parked and pay all appropriate meter fees in order to vend from public space.
- 533.4 A MRV vehicle shall not include an ice cream vending vehicle, as defined in § 599.
- 533.5 A MRV shall not vend on any residential block designated as Residential Permit Parking unless specifically authorized by a Special Event permit.
- 533.6 To vend in a designated MRV location during the designated hours pursuant to § 534, a MRV vehicle shall be required to participate in a monthly MRV location

permit lottery. If a MRV vehicle, with a valid MRV Site Permit, does not participate in the monthly MRV location permit lottery, the MRV shall still be authorized to vend from public space pursuant to § 535.

533.7 No mobile roadway vending shall be authorized within five hundred feet (500 ft.) of a designated MRV location during the designated hours, except within another designated MRV location or with written approval from DCRA.

**534 VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS:
AUTHORIZED LOCATIONS**

534.1 The DCRA Director shall propose MRV locations to be designated, where MRV vehicles, with valid MRV Site Permits, may park in order to vend from public space. The DDOT Director shall review and, if approved, shall designate the MRV locations.

534.2 Each MRV location shall be designated by the DDOT Director with appropriate signage.

534.3 Only MRV vehicles may park within each designated MRV location during the hours of 10:30 a.m. to 2:30 p.m. on weekdays.

534.4 There shall be no parking, standing, or stopping in any designated MRV location from 10:00 a.m. to 10:30 a.m. on weekdays except District government holidays, unless authorized by the DDOT Director.

534.5 A MRV vehicle may park within a designated MRV location for no more than the four (4) hours per day designated by § 534.3.

534.6 The DCRA Director shall propose the following general areas to be reviewed by the DDOT Director for designation as MRV locations:

- (a) McPherson Square;
- (b) Farragut Square;
- (c) Franklin Square;
- (d) Foggy Bottom;
- (e) University of the District of Columbia – Van Ness campus;
- (f) George Washington University;
- (g) L'Enfant Plaza;
- (h) Historic Anacostia;

- (i) Navy Yard;
- (j) Metro Center;
- (k) Union Station;
- (l) Southwest Waterfront;
- (m) Federal Center SW;
- (n) Folger Park/Eastern Market;
- (o) West End;
- (p) Judiciary Square;
- (q) American University;
- (r) Howard University;
- (s) Gallaudet University;
- (t) Catholic University/Trinity College;
- (u) NoMa;
- (v) Minnesota/Benning, NE;
- (w) Friendship Heights; or
- (x) Other additional areas.

534.7 A MRV vehicle parked in a designated MRV location shall be subject to the design standards of § 544.

534.8 Notwithstanding any standards created pursuant to § 544.1, a MRV vehicle may not exceed:

- (a) Eighteen feet six inches (18 ft. 6 in.) in length;
- (b) Eight feet (8 ft.) in width; and
- (c) Ten feet six inches (10 ft. 6 in) in height, measured from bottom of the tire.

534.9 A designated MRV location shall not be established:

- (a) Within areas under the exclusive jurisdiction of the United States Park Police, the United States Capitol Police, or any other agency of the United States government;
- (b) Within a designated loading zone, entrance zone, parking space designated for diplomatic parking, valet parking, or other curbside zone restricted for certain vehicles or uses;
- (c) Along the length of a Metrobus Stop Zone, a commuter bus zone, an intercity bus zone, or other curbside zone specifically designated and demarcated as being for transit use;
- (d) Within forty feet (40 ft.) of the driveway entrance to a police or fire station, or within twenty feet (20 ft.) of any other driveway;
- (e) Within twenty feet (20 ft.) of an alley;
- (f) Within forty feet (40 ft.) of any crosswalk;
- (g) Ten feet (10 ft.) of a fire hydrant;
- (h) Any of the locations enumerated in § 535.3;
- (i) Any location that is not a legal parking space;
- (j) Any location that is immediately adjacent to a duly permitted sidewalk café; or
- (k) Five feet (5 ft.) from a building’s marked fire control room.

**535 VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS:
ADDITIONAL LOCATIONS**

535.1 A MRV vehicle operating outside of a designated MRV location established pursuant to § 534 shall:

- (a) Vend in a legal parking space that meets the requirements of § 535.2;
- (b) Pay all parking meter fees; and
- (c) Obey all posted time restrictions.

535.2 A MRV vehicle operating outside of a designated MRV location shall not park and vend:

- (a) Within areas under the exclusive jurisdiction of the United States Park Police, the United States Capitol Police, or any other agency of the United States government;
- (b) Within a designated loading zone, entrance zone, parking space designated for diplomatic parking, valet parking, or other curbside zone restricted for certain vehicles or uses;
- (c) Where the adjacent unobstructed sidewalk is less than ten feet (10 ft.) wide in the Central Business District or seven feet (7 ft.) wide outside the Central Business District;
- (d) Along the length of a Metrobus Stop Zone, a commuter bus zone, an intercity bus zone, or other curbside zone specifically designated and demarcated as being for transit use;
- (e) Within forty feet (40 ft.) of the driveway entrance to a police or fire station, or within twenty feet (20 ft.) of any other driveway;
- (f) Within twenty feet (20 ft.) of an alley;
- (g) Within forty feet (40 ft.) of any crosswalk;
- (h) Ten feet (10 ft.) of a fire hydrant;
- (i) Any of the locations enumerated in § 535.3;
- (j) Any location that is not a legal parking space;
- (k) Any location that is immediately adjacent to a duly permitted sidewalk café;
- (l) Five feet (5 ft.) from a building's marked fire control room; and
- (m) Within an area designated as a Stationary Roadway Vending Location.

535.3 A MRV vehicle operating under this section shall not vend at the following locations:

- (a) Constitution Avenue NE/NW between 23rd Street, NW, and 2nd Street, NE;
- (b) Independence Avenue SE/SW between 23rd Street, NW, and 2nd Street, NE;
- (c) 17th Street, NW/SW, between Independence Avenue, SW, and H Street, NW;

- (d) 15th Street, NW/SW, between Independence Avenue, SW, and H Street, NW;
- (e) 14th Street, NW/SW, between Constitution Avenue, NW, and Independence Avenue, SW;
- (f) 7th Street, NW/SW, between Constitution Avenue, NW, and Independence Avenue, SW;
- (g) 4th Street, NW/SW, between Constitution Avenue, NW, and Independence Avenue, SW;
- (h) 3rd Street, NW/SW, between Constitution Avenue, NW, and Independence Avenue, SW;
- (i) 1st Street, NE/SE, between Constitution Avenue, NE, and Independence Avenue, SE;
- (j) East Capitol Street, NE, between 1st Street, NE, and 2nd Street, NE;
- (k) Madison Drive, NW, between 15th Street, NW, and 3rd Street, NW;
- (l) Jefferson Drive, SW, between 15th Street, SW, and 3rd Street, SW;
- (m) Pennsylvania Avenue, NW, between 15th Street, NW, and 1st Street, NW;
- (n) Maryland Avenue, SW, between Independence Avenue, SW, and 1st Street, SW; and
- (o) 1st Street, NW/SW, between Constitution Avenue, NW, and Independence Avenue, SW.

536 VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS: APPLICATION FOR NEW LOCATIONS

536.1 A person may submit a request to the DCRA Director to create a new designated MRV location, provided that the person specifies a location that is not in conflict with the above standards. All requests are subject to DCRA and DDOT review and approval.

537 VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS: DIRECTORS' DISCRETION

537.1 The DCRA or DDOT Director has the discretion to propose, modify, or remove a designated MRV location at any time.

PART 5: ASSIGNMENT OF VENDING LOCATIONS**538 ASSIGNMENT OF SIDEWALK VENDING LOCATIONS**

- 538.1 Designated unoccupied sidewalk Vending Locations identified by the DCRA Director and approved by the DDOT Director may be assigned to licensed sidewalk vendors through a lottery conducted by the DCRA Director. No vendor or applicant may participate in a lottery for unoccupied sidewalk Vending Locations unless the vendor holds a Vending Business License or the person holds a current receipt for payment of Vending Business License fees for sidewalk vending and is registered for the lottery.
- 538.2 In addition to the lottery conducted pursuant to § 538.1, a vendor may, when submitting an application for a Vending Site Permit pursuant to § 510.1(b), identify a potential sidewalk Vending Location that the vendor believes meets the DDOT standards in §§ 524-528. If the DDOT Director approves the location as an authorized sidewalk Vending Location, that Vending Location shall be assigned to the vendor who first identified it on his or her completed and accepted Vending Site Permit application.
- 538.3 No holder of a Vending Business License shall be assigned more than five (5) sidewalk Vending Locations.
- 538.4 No more than one (1) vendor may occupy an assigned Vending Location, unless the DCRA Director specifies on the Vending Site Permit that the Vending Location is subject to a shared site agreement between several licensed vendors.
- 538.5 No lottery registration or Vending Location assignment may be transferred, sold, conveyed, or assigned from the assigned vendor to any other person. Any attempt to transfer a lottery registration or Vending Location assignment will disqualify from the lottery both the vendor seeking to transfer the registration and the person seeking to obtain it.
- 538.6 The DCRA Director may contract out the function of performing the lotteries for sidewalk Vending Locations.
- 538.7 No Vending Site Permit shall be distributed until full payment is received from the vendor or person.
- 538.8 A vendor shall have thirty-five (35) calendar days from the billing date to remit payment for the sidewalk Vending Locations the vendor has won. Failure to remit payment shall allow the DCRA Director to rescind the Vending Site Permit offer.

539 ASSIGNMENT OF STATIONARY ROADWAY VENDING LOCATIONS

- 539.1 For a period of one (1) year from the publication in the *District of Columbia Register* of a notice of final rulemaking adopting this chapter, MPD shall oversee

the lottery for stationary roadway Vending Locations. Upon the expiration of the yearlong period, the DCRA Director shall oversee the lottery.

- 539.2 Stationary Roadway Vending Locations shall be assigned as follows:
- (a) All Stationary Roadway Vending Locations shall be allocated by lottery;
 - (b) The lottery shall be conducted monthly, with Vending Locations allocated to a vendor by the following days of the week:
 - (1) Monday;
 - (2) Tuesday;
 - (3) Wednesday;
 - (4) Thursday;
 - (5) Friday;
 - (6) Saturday; or
 - (7) Sunday.
 - (c) There shall be equal allocation in the lottery of Class A and Class B licenses; and
 - (d) No vendor shall be issued Stationary Roadway Vending Site Permits for more than two (2) Stationary Roadway Vending Sites at any one time.
- 539.3 No Stationary Roadway Vending Site Permit shall be distributed until full payment is received from the roadway vendor or person.
- 539.4 A vendor shall have thirty-five (35) calendar days from the billing date to remit payment for the Stationary Roadway Vending Locations the vendor has won. Failure to remit payment shall allow the DCRA Director to rescind the offer to the winning vendor.
- 539.5 The DCRA Director may lottery off unclaimed Stationary Roadway Vending Locations until all Stationary Roadway Vending Locations are awarded.
- 539.6 The DCRA Director shall register licensed roadway vendors, which may include both stationary roadway vendors and mobile roadway vendors, for participation in the lottery by assigning each vendor a registration number.
- 539.7 No vendor may participate in the lottery for Stationary Roadway Vending Locations unless the vendor holds a valid Vending Business License for roadway vending and is registered for the lottery.

- 539.8 No vendor may operate on more than one (1) Stationary Roadway Vending Location per day, and only one (1) vendor may occupy an assigned Stationary Roadway Vending Location as described on the Stationary Roadway Vending Site Permit, unless otherwise specified by the DCRA Director on the Stationary Roadway Vending Site Permit.
- 539.9 No lottery registration or Stationary Roadway Vending Location assignment or permits may be transferred from a vendor to any other person.
- 539.10 The DCRA Director may contract out the function of performing the lottery for Stationary Roadway Vending Locations; provided that the lottery may be subject to any government-required audit or review.

540 ASSIGNMENT OF MOBILE ROADWAY VENDING LOCATIONS

- 540.1 MRV location permits for each MRV vehicle shall initially be determined by a monthly lottery with each lottery assigning a MRV vehicle to a specific MRV location and for a specific day of the month.
- 540.2 The DCRA Director shall establish the format of the MRV location permit lottery program and may modify the format, as necessary, to improve efficiency or to incorporate technological advancements.
- 540.3 The lottery shall be conducted monthly, with MRV locations allocated to MRV vehicles by the following days of the week:
- (a) Monday;
 - (b) Tuesday;
 - (c) Wednesday;
 - (d) Thursday; and
 - (e) Friday.
- 540.4 A MRV vehicle shall register for the MRV location permit lottery by the MRV vehicle's vehicle registration number and Vending Business license number. No vendors will be eligible for MRV location permit lottery in months when their Vending Business license will expire without renewal.
- 540.5 There shall be only one (1) MRV location permit lottery entry per MRV vehicle.
- 540.6 Prior to each monthly lottery, MRV vendors shall have the option to list the available MRV locations in order of their preference; this information will serve as the MRV vendor's lottery preference request.

- 540.7 In addition to the standard MRV location permit lottery entry, the DCRA Director may create a lottery program for MRV vehicles to vend from multiple established MRV locations for specific hours on specific days of the week during each month.
- 540.8 The non-refundable lottery application fee for the monthly MRV location permit lottery shall be \$25 per MRV vehicle and shall be paid prior to a MRV vehicle submitting monthly MRV location preferences.
- 540.9 The monthly MRV location permit fee shall be \$150 per MRV vehicle and shall be paid in full prior to the MRV vehicle being authorized to vend from the designated MRV location assigned via the monthly lottery.
- 540.10 A MRV vendor not participating in the monthly MRV location permit program may vend from any legal parking space, in compliance with its Vending Site Permit and §§ 534 and 535.

PART 6: MISCELLANEOUS

541 PUBLIC MARKETS

- 541.1 No person shall operate or vend from a public market unless the public or private market is located on:
- (a) Public space approved by the DDOT Director;
 - (b) Private space; or
 - (c) A combination of both public space approved by the DDOT Director and private space.
- 541.2 No person shall manage a public market on public or private space without holding a Class C Vending Business License.
- 541.3 No Class C Vending Business License holder shall operate a public market on public space without first obtaining a Public Space Permit from the DDOT Director.
- 541.4 Each person operating at a public market managed by the holder of a Class C Vending Business License on public or private space shall be subject to all applicable license and health laws and regulations.
- 541.5 No Class C Vending Business License holder shall operate a public market on public or private space without first obtaining a DOH health inspection certificate and food safety compliance inspection in accordance with Subtitle A of Title 25 of the DCMR.

- 541.6 Each public market operated by the holder of a Class C Vending Business License that is operating on private space shall obtain a certificate of occupancy from the DCRA Director.
- 541.7 A person who is authorized by the Class C Vending Business License holder to operate at a public market may operate without a Vending Business License or Vending Site Permit; provided, that the person shall:
- (a) Comply with all applicable laws and regulations regarding the registration of the person's business with the Office of Tax and Revenue and DCRA; and
 - (b) Comply with any standards imposed by DOH or other relevant agencies.
- 541.8 A Class C Vending Business License holder shall maintain records of all persons operating at each public market managed by the licensee.

542 TEMPORARY RELOCATION OF VENDORS

- 542.1 The DCRA Director, the DDOT Director, or MPD may order the temporary relocation of a vendor from the vendor's permitted Vending Location in construction areas, for special events or transportation requirements, or any other situations where the Vending Location is either unavailable or creates a threat to the public health, safety, or welfare.
- 542.2 Any temporary relocation shall last only until such time as the original Vending Location is determined by the DCRA Director, the DDOT Director, or MPD to be useable again.
- 542.3 A vendor subject to a temporary relocation shall be relocated by the DCRA Director to the closest available location that is deemed allowable for vending.
- 542.4 In any situation where a temporary relocation will be for at least twenty-one (21) calendar days, the DCRA Director shall issue the affected vendor, at no cost, a new Vending Site Permit for the new Vending Location.

543 ICE CREAM ROADWAY VENDORS

- 543.1 No ice cream vending vehicle shall remain in any one (1) place for a period longer than necessary to make sale after having been approached or stopped for that purpose.
- 543.2 When stopped, an ice cream vending vehicle shall be legally parked.
- 543.3 No ice cream roadway vending business shall be transacted within one hundred feet (100 ft.) of the roadway of a traffic circle.

- 543.4 When stopping to make a sale, ice cream roadway vending vehicles that are likely to attract children as customers shall park curbside or as close as possible to a pedestrian crosswalk without entering the intersection or otherwise interfering with the flow of traffic.

SUBCHAPTER D: DESIGN STANDARDS, OPERATIONAL STANDARDS, AND INSPECTIONS

PART 1: DESIGN STANDARDS

544 DESIGN STANDARDS: GENERAL

- 544.1 The DCRA Director may develop design standards for vending vehicles, vending stands, and vending carts in addition to those set forth in this chapter.
- 544.2 The provisions of §§ 545, 546, 547, 548, 549, 553, 554, and 559 shall not apply to activities licensed and permitted under § 503.1(c).

545 DESIGN STANDARDS: VENDING CARTS

- 545.1 No vending cart, including any display on or attachments to the cart allowed by this section, shall exceed the following dimensions unless specified by the DCRA Director on the Vending Site Permit:
- (a) Four feet six inches (4 ft. 6 in.) in width, unless the vendor vends food from the vending cart, in which case the vending cart shall not exceed five feet (5 ft.) in width;
 - (b) Seven feet (7 ft.) in length, unless the vendor vends food from the vending cart, in which case the cart shall not exceed eight feet (8 ft.) in length; and
 - (c) Eight feet six inches (8 ft. 6 in.) in height, measured from the bottom of the tire.
- 545.2 A vending cart shall be covered by either:
- (a) One (1) umbrella, which shall not exceed nine feet (9 ft.) in diameter nor extend more than four and one half feet (4.5 ft.) in any direction from the body of the cart; or
 - (b) One (1) canopy which shall not overhang more than six inches (6 in.) in any direction from the body of the cart.
- 545.3 Any umbrella or canopy used to cover a vending cart:
- (a) Shall be made of water-resistant canvas with wood or metal frames; and

(b) Shall not contain any advertising other than advertising allowed under § 549.

545.4 No food or merchandise shall be hung or otherwise displayed from the back of the vending cart.

545.5 No food or merchandise, hung or otherwise displayed on the front of the vending cart, shall extend more than two feet (2 ft.) from the front of the vending cart or extend past the sides of the vending cart.

545.6 All food, merchandise, and equipment, other than food or merchandise hung or displayed on the front of the vending cart, shall be contained within or beneath the body of the vending cart; provided, that up to two (2) coolers or containers with food may be placed immediately adjacent to the vending cart, at least four inches (4 in.) off the ground, and in compliance with DOH food storage regulations; and provided further, that the total size of the coolers or containers taken together shall not exceed the length of the cart (eight feet (8 ft.)).

545.7 The cart shall be placed on one (1) or more wheels; provided, that:

- (a) The wheels shall not exceed two feet eight inches (2 ft. 8 in.) in diameter;
- (b) The wheels shall be a wood or metal frame with rubber trim for tires; and
- (c) The cart may include stabilizing legs in addition to the wheel or wheels.

545.8 The vending cart shall be equipped with a chock to be used to prevent the cart from rolling or moving.

546 DESIGN STANDARDS: VENDING VEHICLES

546.1 No vending vehicle, including any display on or attachments to the vehicle allowed by this section, shall exceed the followings dimensions unless otherwise authorized by the DCRA Director:

- (a) Eighteen feet six inches (18 ft. 6 in.) in length;
- (b) Eight feet (8 ft.) in width; and
- (c) Ten feet six inches (10 ft. 6 in) in height, measured from bottom of the tire.

546.2 No food, merchandise, or equipment shall be hung or otherwise displayed from the non-serving side or back of the vending vehicle.

546.3 All food, merchandise, and equipment, other than the serving window flap or awning shall be firmly attached to the body of the vending vehicle and shall not

project more than twelve inches (12 in.) from the body of the vehicle when serving and must be retracted when not serving.

546.4 All vending vehicles shall rest on inflated tires.

547 DESIGN STANDARDS: VENDING STANDS

547.1 The design and operation of all vending stands shall conform with the following requirements, unless otherwise authorized by the DCRA Director on the Vending Site Permit:

- (a) The stand shall consist of a wood, plastic, or metal table with attached folding legs, a stair-stepped structure approved by the DCRA Director, or a shoe-shine stand structure approved by the DCRA Director. If the stand or structure is made of wood, the wood shall consist of weather-resistant lumber with two (2) coats of varnish or non-toxic paint;
- (b) The stand shall not exceed a maximum horizontal surface area of seven feet by four feet six inches (7 ft. x 4 ft. 6 in.);
- (c) The surface area of the table (or the highest surface area of the stair-stepped structure) shall be at a height of between one foot (1 ft.) and four and a half feet (4.5 ft.);
- (d) The stand shall have a canopy that shall not exceed seven feet nine inches by five feet three inches (7 ft. 9 in. x 5 ft. 3 in.) and shall be comprised of water-resistant canvas or six (6) ply polyurethane material covering a metal or wood frame mounted above the stand. The uppermost point of the canopy shall not exceed more than nine feet (9 ft.) in height and the lowest point on the canopy, inclusive of any canopy flap, shall not be less than seven feet (7 ft.) in height, measured from the sidewalk pavement. The canopy shall be clean and in good repair;
- (e) A skirt or tablecloth shall be attached to the table surface on all sides and shall extend from the table surface to no more than one inch (1 in.) from the sidewalk pavement. The skirt shall be clean and in good repair; and
- (f) No free standing racks or other free-standing forms of display shall be allowed around the stand.

548 DESIGN STANDARDS: FOOD VENDING CARTS AND VEHICLES

548.1 All vending vehicles and vending carts that vend food shall be inspected and approved by the DOH Director as being of a design which is approved by, or is equivalent to a design approved by, the National Sanitation Foundation. All equipment used in the vehicle or cart for the vending of food shall be inspected and approved by the DOH Director as being of commercial grade and in compliance with National Sanitation Foundation standards or the equivalent.

- 548.2 If DCRA waives any design standard for a food vending cart or vehicle that is not in compliance with §§ 545, 546, 547, or 548, a written waiver approving the non-compliant cart or vehicle shall be issued by DCRA, MPD, and DDOT to the DOH Director prior to DOH either conducting a food safety code compliance inspection pursuant to Subtitle A of Title 25 of the DCMR or issuing a health inspection certificate.
- 548.3 All vending vehicles and vending carts that vend food shall be designed and operated in accordance with all relevant food safety laws and may be required to include:
- (a) A fresh water tank with at least a five gallon (5 gal.) capacity or more for food vending carts;
 - (b) A fresh water tank with at least a thirty-eight gallon (38 gal.) capacity or more for food vending vehicles;
 - (c) A waste water tank with a capacity fifteen percent (15%) or larger than the required fresh water tank;
 - (d) A three (3) compartment sink with hot and cold running water;
 - (e) A separate hand washing sink with mixing faucet;
 - (f) Walls, ceiling, and floors that are smooth and easily cleanable;
 - (g) Natural or electrical lighting to provide a minimum of fifty (50) candles of light on work surfaces;
 - (h) A generator-powered refrigerator that will maintain stored foods at forty-one degrees Fahrenheit (41° F) or below and that has sufficient holding capacity for one (1) day of operation;
 - (i) A generator-powered freezer that will hold stored foods at zero degrees Fahrenheit (0° F) or below and that has sufficient holding capacity for one (1) day of operation; and
 - (j) Adequate ventilation.

549 DESIGN STANDARDS: ADVERTISING

- 549.1 No advertising, other than the name of the vending business and any food, merchandise, or service (including the price thereof) sold as part of the vending business, shall be placed on a vending vehicle, stand, or cart, including any canopy or umbrella.

549.2 Advertising of any food, merchandise, or service (including the price thereof) sold as part of the vending business may be placed only on the front side of a vending vehicle or vending cart or on the front side of a vending stand skirt, and shall not be placed on an umbrella or canopy or on the back or side (street side) of any vending vehicle or vending cart or on the back or side of a vending stand skirt.

549.3 Advertising of the name of the vending business may be placed on the canopy, umbrella, vending stand skirt, or along the lower half of the front, side, or back of a vending vehicle or cart.

550 DESIGN STANDARDS: PHASE-IN PERIOD

550.1 Any vendor issued a Vending Business License prior to the date of publication in the *District of Columbia Register* of a notice of final rulemaking adopting this chapter, shall have until one (1) year from that date of publication to come into compliance with the following subsections of this chapter:

- (a) Subsection 545.2; and
- (b) Subsection 545.5.

PART 2: OPERATIONAL STANDARDS

551 OPERATIONAL STANDARDS: GENERAL

551.1 A vendor shall comply with all District and federal laws and regulations applicable to the operation of a vending business.

551.2 No vendor shall vend in public space:

- (a) After the expiration of the Vending Business License, Vending Site Permit, or any other license, permit, certificate, or authorization required for the lawful operation of the vendor's vending business; or
- (b) During any period when the vendor's Vending Business License, Vending Site Permit, or any other license, permit, certificate, or authorization required for the lawful operation of the vendor's vending business has been suspended or revoked.

551.3 A vendor shall, at all times, obey posted traffic and parking signs.

552 OPERATIONAL STANDARDS: AUTHORIZED HOURS OF OPERATIONS

552.1 Vendors may operate only during the following hours:

- (a) Sunday through Thursday, from 5:00 a.m. to 10:00 p.m.; and

- (b) Friday and Saturday from 5:00 a.m. to 1:00 a.m. the next day; provided, that vendors operating in Residential Zones, as specified in the District of Columbia Zoning Regulations, shall not vend past 10:00 p.m. on any night of the week.

552.2 Notwithstanding § 552.1, the Vending Site Permit for each Vending Location in a Vending Development Zone shall establish the hours of operation for that Vending Location.

553 OPERATIONAL STANDARDS: PLACEMENT OF VENDING VEHICLES, VENDING CARTS, AND VENDING STANDS

553.1 No vendor shall vend in a location that is not a Vending Location assigned to the vendor by the DCRA Director.

553.2 A vendor shall place his or her vending stand or vending cart parallel to the curb, with the longest side of the vending stand or vending cart parallel to the curb and located two feet (2 ft.) from the curb face, unless otherwise specified by the DCRA Director on the Vending Site Permit.

553.3 No vendor shall vend upon, or impede free access to, service and ventilation grates and covers or in any location that would not be an authorized Vending Location under § 525.1, unless specifically authorized by the DCRA Director or the DDOT Director or as part of a Vending Development Zone.

553.4 No vendor shall drive a vehicle onto or over a curb with the purpose of dropping off or picking up a vendor cart for towing.

553.5 No vendor shall place his or her vending vehicle, vending stand, or vending cart in such a manner that it impedes passage of pedestrians along the sidewalks.

554 OPERATIONAL STANDARDS: PLACEMENT OF EQUIPMENT AND RELATED ITEMS

554.1 All surplus merchandise, food, equipment, and other items related to the operation of a vending vehicle, vending stand, or vending cart shall be kept either in or under (or, in the case of a vending stand, on) the vending vehicle, vending stand, or vending cart.

554.2 No merchandise, food, equipment, or other items related to the operation of a vending vehicle, vending stand, or vending cart shall be stored or placed upon any public space adjacent to the vending vehicle, vending stand, or vending cart.

554.3 No vendor shall place any vending equipment or related items upon, or in a place or manner impeding free access to, service and ventilation grates and covers in accordance with § 553.3.

554.4 No merchandise, food, equipment or other items related to the operation of a vending vehicle, vending stand, or vending cart shall be stored or otherwise kept on the public space beyond the hours of operation of the vending business.

555 OPERATIONAL STANDARDS: FOOD PREPARATION AND HANDLING

555.1 All preparation, handling, transportation, and storage of food vended under this chapter shall be in compliance with:

- (a) An Act Relating to the adulteration of foods and drugs in the District of Columbia, approved February 17, 1898 (30 Stat. 246; D.C. Official Code §§ 48-101 *et seq.* (2009 Repl. & 2011 Supp.));
- (b) Subtitle A (Food and Food Operations) of Title 25 (Food Operations and Community Hygiene) of the DCMR;
- (c) Any other applicable law or regulation related to the preparation, handling, transportation, or storage of food;
- (d) Requirements of, and conditions imposed by, the health inspection certificate, including any plans or standards approved or imposed as part of the issuance of the health inspection certificate; and
- (e) Any applicable standards established by DOH.

555.2 No food vending equipment shall be used for purposes other than those authorized by the DOH Director.

555.3 No food may be vended from a vending vehicle, cart, or stand unless there is a person in charge on site at the time of the preparation, handling, and sale of the food who holds a valid:

- (a) Food Protection Manager Certificate issued by the Conference of Food Protection Standards for Accreditation of Food Protection Manager Certification Programs in accordance with § 203 of Subtitle A (Food and Food Operations) of Title 25 of the DCMR; and
- (b) DOH-issued a Certified Food Protection Manager Identification Card in accordance with § 203 of Subtitle A (Food and Food Operations) of Title 25 of the DCMR;

556 OPERATIONAL STANDARDS: FIRE SAFETY

556.1 All vending vehicles equipped with cooking appliances shall have at least one (1) fire extinguisher with a minimum rating of 2A-10BC mounted in the cooking area.

556.2 All vending vehicles operating with propane or open flames shall meet the following standards:

- (a) All propane compartments shall be secured and placarded;
- (b) “No Smoking” signs shall be posted on the vehicle; and
- (c) Propane or open flame permits shall be clearly posted on the vehicle.

557 OPERATIONAL STANDARDS: USE OF AMPLIFICATION SYSTEMS

557.1 No vendor shall operate a loud speaker or sound amplifier, or play a radio, drum, or other musical instrument as a means of advertising in such a manner as to create a noise disturbance, as that term is defined in DCMR Title 20, § 2799.

557.2 Activities open to the public and provided for in DCMR Title 20, Subsection 2805.2, are exempt from the limitations set forth in this section.

PART 3: INSPECTIONS

558 INSPECTIONS: FOOD PREPARATION AND HANDLING

558.1 The vendor’s food preparation, handling, transportation, and storage operations shall be subject to inspection at any time to verify compliance with applicable provisions of Subtitle A of Title 25 of the DCMR and any conditions imposed by the health inspection certificate.

558.2 Each food vending business shall be inspected by the DOH Director at least once every six (6) months. Failure to pass an inspection shall be cause for summary suspension of the vendor’s Vending Business License and Vending Site Permit pursuant to §§ 507, 512, and 516.

559 INSPECTIONS: DESIGN STANDARDS

559.1 A vendor’s vending vehicle, vending stand, or vending cart shall be subject to inspection at any time by the DCRA Director to verify compliance with applicable design standards required by this chapter.

559.2 Failure to comply with design standards for vending vehicles, vending stands, or vending carts may be cause for the issuance of a civil infraction or the summary suspension or revocation of a Vending Site Permit.

560 INSPECTIONS: FIRE SAFETY

560.1 All vending vehicles, vending carts, or vending stands with deep fryers, propane or open flame, or any other electrical or cooking devices shall be inspected by FEMS at least once a year or as regularly as the Fire Marshal prescribes.

- 560.2 If a vending vehicle, vending cart, or vending stand fails an inspection performed pursuant to this section, the FEMS inspector may summarily seize the Vending Business License and Vending Site Permit and deliver it to the DCRA Director. The DCRA Director shall return the seized Vending Business License or Vending Site Permit to the licensee only upon the licensee's vending vehicle, vending cart, or vending stand passing FEMS inspection.

PART 4: OTHER STANDARDS OF OPERATION

561 MAINTENANCE STANDARDS

- 561.1 All vending vehicles, vending carts, and vending stands, including canopies and umbrellas, shall be maintained in a safe, clean, and sanitary condition, and in good repair.
- 561.2 All vending vehicles, vending carts, and vending stands, including canopies and umbrellas, shall be maintained so that the vending vehicle, cart, or stand remains at all times in compliance with the standards of this subchapter.

562 DISPLAY OF LICENSES, PERMITS, AND CERTIFICATES

- 562.1 A vendor shall conspicuously display on the vendor's vending vehicle, vending cart, or vending stand, or public market, as required, in Chapter 37, Subtitle A of Title 25 of the DCMR, his or her:
- (a) Vending Business License;
 - (b) Vending Site Permit;
 - (c) Health inspection certificate;
 - (d) Food Protection Manager Certificate;
 - (e) DCRA-issued vendor identification card;
 - (f) DOH-issued certified food protection manager identification card; and
 - (g) A propane or open flame permit, if the vendor uses propane or open flames in his or her operations.
- 562.2 The items required by § 562.1 shall be considered to be properly displayed when they are firmly attached to the vending vehicle or stand and are clearly visible to the public.
- 562.3 No person shall alter, mutilate, forge, or illegally display any license, permit, or other certificate of authority issued pursuant to this chapter.

- 562.4 If a Vending Business License, Vending Site Permit, or health inspection certificate is displayed by a vendor or on a vending vehicle, vending cart, or vending stand other than that of the vendor, vending vehicle, vending stand, or vending cart for which the Vending Business License, Vending Site Permit, or health inspection certificate was issued, the DCRA Director or MPD may summarily impound or immobilize the vending vehicle, vending stand, or vending cart on which the Vending Business License, Vending Site Permit, or health inspection certificate is unlawfully displayed.
- 562.5 If a summary impounding or immobilization occurs pursuant to § 562.4, the DCRA Director or MPD shall release the impounded or immobilized vending vehicle, vending stand, or vending cart to the vendor upon the payment of a fine in an amount established by the DCRA Director.
- 562.6 Failure to display any required certificates of authority, or to provide those certificates to an authorized District government representative, may result in summary suspension of a vendor's Vending Business License or Vending Site Permit and the impounding or immobilizing of the vending vehicle, vending stand, or vending cart. The vendor's license or site permit shall be returned to the licensee upon the proper display or provision of the required certificates of authority.

563 MOTOR VEHICLE REGISTRATION AND INSPECTION OF VENDING VEHICLES AND CARTS

- 563.1 All vending vehicles and vending carts:
- (a) Shall be registered and inspected by the District of Columbia Department of Motor Vehicles or by the motor vehicle department of another state or municipality with appropriate jurisdiction;
 - (b) Shall display all current tags on the vehicle or cart; and
 - (c) Shall not vend any food, merchandise, or services if the vehicle has temporary tags.
- 563.2 Any vending vehicle not displaying current vehicle registration shall be subject to removal and shall subject the licensee to summary suspension of their Vending Business License and Vending Site Permit. The vendor's vehicle, Vending Business License and Vending Site Permit shall be returned to the licensee upon the proper display of current vehicle registration.

564 EMPLOYEES OF LICENSED VENDORS

- 564.1 No individual shall work at a vending business unless the individual is the licensed vendor of the vending business or is an employee of the vendor holding a valid Vendor Employee Identification Badge.

- 564.2 The employing vendor shall follow all applicable District and federal employment laws and regulations.
- 564.3 An employee of a vendor may operate the vendor's Class A or Class D vending business without the vendor being present; provided, that the employee holds a valid:
- (a) Food Protection Manager Certificate issued by the Conference of Food Protection Standards for Accreditation of Food Protection Manager Certification Programs in accordance with § 203 of Subtitle A (Food and Food Operations) of Title 25 of the DCMR; and
 - (b) DOH-issued a Certified Food Protection Manager Identification Card in accordance with § 203 of Subtitle A (Food and Food Operations) of Title 25 of the DCMR.
- 564.4 No individual may act as an employee of a vendor unless that individual holds a valid Vendor Employee Identification Badge issued by the DCRA Director.
- 564.5 An individual shall apply for a Vendor Employee Identification Badge by submitting an application to the DCRA Director, on a form prescribed by the DCRA Director, which shall include:
- (a) The name, address, photograph, and telephone number of the individual;
 - (b) The name and license number of the vendor for whom the individual will act as an employee;
 - (c) The signature of the individual;
 - (d) The notarized signature of the vendor;
 - (e) The application fee, which shall be fifty-five dollars (\$55); and
 - (f) Any additional information or documentation required by the DCRA Director.
- 564.6 The Vendor Employee Identification Badge shall include the name of the employee of the vendor, a badge number, the name of the licensed vendor, and the Vending Business License number of the vendor.
- 564.7 An employee shall conspicuously wear his or her Vendor Employee Identification Badge when the employee is operating the vendor's vending business.
- 564.8 An individual may represent more than one (1) licensed vendor; provided, that the individual:

- (a) Has a Vendor Employee Identification Badge for each licensed vendor that employs the individual; and
- (b) Displays the Vendor Employee Identification Badge for the respective licensed vendor while working at that vendor’s vending business.

564.9 A licensed vendor shall be held responsible for the actions of his or her employees and independent contractors, where such actions are related to the operation of the vending business and, either singularly or in combination, the Vending Business License, Vending Site Permit, Vendor Employee Identification Badge, and health inspection certificate of the vendor may be suspended or revoked based on those actions.

565 LITTERING AND CUSTOMER LINES

565.1 Vendors shall keep sidewalks, roadways, and other public space adjoining and adjacent to their assigned Vending Location clean and free from paper, peelings, and refuse of any kind.

565.2 All vendors shall affix to their stands or vehicles a container for litter that shall be maintained and emptied when full. Public trash receptacles shall not be used for compliance with this section.

565.3 A vendor shall ensure that waiting customers do not completely block the public sidewalk. A vendor shall comply with this subsection by asking customers, through verbal communication and signage on the vehicle, to not impede pedestrian access along the public sidewalks.

565.4 The DCRA Director may enter into agreements with other District agencies, public-private partnerships, or other District government-authorized or –licensed entities to assist with waste management issues related to vending businesses.

566 DISPLAY OF SAMPLE ITEMS

566.1 No vendor shall display any object (including signage) used as an example of merchandise or food for sale or to advertise merchandise, services, or food for sale unless the object conforms to the merchandise or food being sold by the vendor at that particular Vending Location.

567 PURCHASE OR RECEIPT OF STOCK

567.1 No vendor shall purchase any inventory stock from public space.

567.2 No vendor shall take delivery of any inventory stock in public space, with the exception of perishable food items for consumption and ice.

568 PLACING VENDING BUSINESS LICENSES ON HOLD

- 568.1 The DCRA Director shall create a process by which a vending business may voluntarily put its Vending Business License on hold and subsequently retrieve it from hold status to avoid suspension or revocation of a Vending Site Permit.
- 568.2 A Vending Business License may be placed on hold and in the possession of the DCRA Director during such times that the vending business is not in operation for seasonal purposes or emergent issues; provided, that the holder of the Vending Business License is in compliance with the Clean Hands Certification.
- 568.3 Placement of a Vending Business License and/or Vending Site Permit on hold pursuant to this section shall not stay the expiration date of either the license or site permit and, to remain valid, it must be renewed on or before its expiration date, pursuant to § 506.
- 568.4 A vendor, or any employee or independent contractor employed by the vendor, who vends any products, food, merchandise, or services while his or her Vending Business License is placed on hold shall be subject to the revocation of his or her Vending Business License.

569 REQUIREMENT TO UPDATE INFORMATION

- 569.1 If, pursuant to the provisions of this chapter, a vendor provided information to a District agency and that information changes, the vendor shall, within ten (10) business days after the change in information, provide updated information to the appropriate agency.

SUBCHAPTER E: VENDING DEVELOPMENT ZONES AND SPECIAL EVENTS**570 VENDING DEVELOPMENT ZONES**

- 570.1 The DCRA Director may establish Vending Development Zones (VDZ) to promote new and innovative vending practices designed to achieve the following objectives:
- (a) For communities to utilize vending and public markets to create unique and attractive destinations and increase foot traffic in commercial corridors;
 - (b) For communities to have expanded capability to manage vending and public markets in unique high-density hospitality zones;
 - (c) Provide opportunities for vendors to expand their creativity and entrepreneurship in both their products and their carts, stands, or vehicles;
 - (d) Expand vending and public market opportunities for small and local businesses;

- (e) Improve the safety, appearance, and use of public space;
- (f) Allow for greater expansion of the creative economy through the addition of entertainment and artistic business ventures in public space;
- (g) Attract retail to emerging corridors by bringing new retail energy to neighborhoods; and
- (h) Strengthen the retail base and create opportunities for vibrant retail streets and corridors and ensure shoppers have a greater selection of products and services.

570.2 Notwithstanding other provisions of this chapter and of Chapter 13 of Title 19 of the DCMR, the DCRA Director shall allow a VDZ greater flexibility in complying with regulations governing the:

- (a) Location of vendors in public space, provided, that no category of Vending Business License is specifically excluded;
- (b) Method for assigning Vending Locations, including the exclusion of any roadway vending vehicle that is not expressly included by Vending Site Permit in the VDZ;
- (c) Design standards for vending vehicles, vending carts, roadway vending vehicles, and vending stands;
- (d) Hours of operation;
- (e) Length of time for which a Vending Site Permit shall be issued; and
- (f) Special performance and entertainment requirements of Chapter 13 of Title 19 of the DCMR.

570.3 The DCRA Director may establish a VDZ upon the approval of an application submitted by a business association, community organization, Advisory Neighborhood Commissions (ANCs), Business Improvement Districts (BIDs), or District government agency.

570.4 The DCRA Director shall administer the process for reviewing applications in consultation with the following Coordinating Agencies:

- (a) Department of Small and Local Business Development;
- (b) Department of Health;
- (c) District Department of Transportation; and
- (d) Office of Planning.

570.5 A VDZ application shall be reviewed in a two (2)-part process:

- (a) The applicant shall submit five (5) hard copies or one (1) electronic copy of a pre-application to the DCRA Director who shall forward a copy to each Coordinating Agency. The pre-application shall include the following information:
 - (1) The applicant's mission, bylaws, process for electing officers, and public meeting requirements where applicable or, in the case of a Coordinating Agency, its mission and responsibilities;
 - (2) The purpose and intent of establishing a VDZ, including aspects of placemaking and creative economy planning;
 - (3) A map delineating the proposed boundaries of the VDZ and all current Vending Locations; and
 - (4) Where applicable, any partner organizations collaborating on the application.
- (b) Upon verification of the items required by paragraph (a), the DCRA Director shall approve the pre-application. Within ninety (90) calendar days of notification from the DCRA Director of pre-application approval, the applicant shall, in consultation with the Coordinating Agencies, prepare and submit five (5) hard copies or one (1) electronic copy of a VDZ application to the DCRA Director. The application shall demonstrate how the purpose and intent of the proposed VDZ will be realized and include the following:
 - (1) A description of the proposed innovative vending strategy or expanded management opportunity;
 - (2) A map showing proposed vending and public market locations;
 - (3) An implementation plan that may include, but is not limited to:
 - (A) Financial assistance, equipment assistance, storage assistance, technical advice, or business planning support for existing and potential new vendors;
 - (B) Marketing strategy for placemaking, coordinated design, semi-permanent fixtures, entertainment, or creative economy programming;
 - (C) Partnership opportunities; and
 - (D) Diversity of products or services offered;

- (5) A plan for coordinating with existing vendors and businesses located within the proposed VDZ; and
- (6) Any other information that the DCRA Director requires.

570.6 The DCRA Director and coordinating agencies shall review VDZ applications to identify any issues that the applicant must resolve prior to further processing of the application. Additionally:

- (a) The DCRA Director shall forward each VDZ application to the Coordinating Agencies for evaluation based upon:
 - (1) Compliance with objectives defined in § 570.1; and
 - (2) The ability of the applicant to achieve the proposed innovative vending strategy;
- (b) Each Coordinating Agency shall review the application concurrently within forty-five (45) days and forward any issues to the DCRA Director;
- (c) The DCRA Director shall notify the applicant in writing or electronically of any issues identified by a Coordinating Agency and the applicant shall work with the Coordinating Agencies to address all issues within thirty (30) days of receiving written or electronic notification. The Coordinating Agencies shall notify the Director when all issues have been resolved; and
- (d) The Director may deny an application if the applicant is unable to resolve any issues identified by the Coordinating Agencies within the forty-five (45-) day time period set forth in Subsection (b), but extend the forty-five (45-) day period for good cause.

570.7 Within forty-five (45) days of receiving favorable reports from all coordinating agencies, DCRA shall publish notice of the proposed vending development zone in the District of Columbia Register. Within forty-five (45) days of publication of notice in the *D.C. Register*, DCRA shall hold a public hearing to solicit public comments on the VDZ application. The DCRA Director shall publish notice of the hearing in the *District of Columbia Register*, give notice of the hearing to the affected Advisory Neighborhood Commission, and post copies of the application on the DCRA website at least fifteen (15) calendar days before the hearing.

570.8 Within forty-five (45) days after the public hearing, the DCRA Director shall either approve or deny the VDZ application based upon the information in the VDZ application and the findings from the public hearing.

570.9 The DCRA Director shall assist in the implementation of the VDZ vending strategy. Vending Business Licenses and Vending Site Permits shall be issued consistent with the approved VDZ application. Pursuant to the VDZ vending

strategy, the DCRA Director shall manage the site delegation and distribution of Vendor Locations to vendor site applicants.

- 570.10 The DCRA Director may require the VDZ applicant or vendors in a VDZ to provide information or reports that are needed to assess long-term benefits or disadvantages of the innovative vending practices.
- 570.11 The Director may suspend or revoke a vendor's Vending Business License or Vending Site Permit if the vendor fails to comply with the VDZ vending strategy.
- 570.12 The Director shall discontinue a VDZ if:
- (a) The VDZ vending strategy fails to achieve the purpose and intent of the VDZ; or
 - (b) The Director determines that it is not in the best interest of the public to continue the VDZ, based on such factors as:
 - (1) Poor management of the VDZ;
 - (2) Unsafe conditions resulting from the VDZ; and
 - (3) Failure to follow or maintain the vending plan contained in the VDZ application.
- 570.13 Before the DCRA Director discontinues a VDZ, the DCRA Director shall provide written notice to the businesses, organizations, or agencies administering the VDZ of the intent to discontinue the VDZ and the reasons for the discontinuance.
- 570.14 Within forty-five (45) days of receiving the written notice from the DCRA Director, the businesses, organizations, or agencies administering the VDZ shall cure the identified reasons for the discontinuance of the VDZ. The DCRA Director, at his or her discretion, may extend the forty-five (45) day period for good cause.

571 SPECIAL EVENTS

- 571.1 Persons who are authorized by the organizer of a licensed Special Event to vend within the boundaries of a licensed Special Event may vend without a Vending Business License or Vending Site Permit.
- 571.2 A vendor authorized to vend within the boundaries of a licensed Special Event area shall comply with all applicable laws and regulations regarding the registration of vendor's business with the Office of Tax and Revenue and DCRA and shall comply with any standards imposed by DOH or other relevant agencies.

SUBCHAPTER F: STREET PHOTOGRAPHY**572 STREET PHOTOGRAPHY: REQUIREMENTS AND RESTRICTIONS**

572.1 A vendor holding a Vending Business License for street photography (and each individual working as an employee or independent contractor of the vendor) shall deliver or cause to be delivered a finished photograph of the person purchasing the photograph either at the time of the purchase of the photograph or within a time period specified on a card handed to the person at the time of the taking of the photograph.

572.2 The card required by § 572.1 shall contain the following:

- (a) The name of the vendor;
- (b) The name of the employee or independent contractor (if any) taking the photograph;
- (c) The vendor's Vending Business License Number;
- (d) The employee's or independent contractor's Vendor Employee Identification Badge number;
- (e) The telephone number of the vendor; and
- (f) The time period within which the photograph shall be delivered and a statement that if the photograph is not delivered within the time period specified on the card, the vendor shall refund the purchase price.

572.3 Each finished photograph shall be clear and sharp, and shall show no blur of focus or camera movement which affects the principal subject.

SUBCHAPTER G: SOLICITING**573 SOLICITING: GENERAL PROVISIONS**

573.1 No person shall solicit any person from a street, sidewalk, or other public space, or in any way interfere with the free passage of any person along any street, sidewalk, or other public space, for the purpose of inducing that person to do any of the following:

- (a) Buy any merchandise, food, or service;
- (b) Patronize any hotel, motel, inn, or boarding house; or
- (c) Patronize any place of entertainment or amusement.

- 573.2 No person shall solicit any other person within or on the grounds of any railroad or bus station or depot, or on public space in the District, for the purpose of securing a passenger or passengers for transportation for hire, unless properly licensed and permitted to do so by the Mayor.
- 573.3 No person shall, on any public highway in the District, solicit employment to guard, watch, wash, clean, repair, or paint, any automobile or other vehicle, except as provided for in Title 18 of the DCMR.
- 573.4 No person shall remain in front of or enter any store or vending business where goods are sold at retail for the purpose of enticing away or in any manner interfering with any person who may be in front of or who may have entered the store or vending business for the purpose of buying.
- 573.5 Unless issued a valid Class D Vending Business License or engaged in a transaction with a Class D Vending Business Licensed vendor, no person shall sell or offer to sell tickets from the sidewalks, streets, or public spaces anywhere in the District for any sightseeing bus tours of any kind.
- 573.6 Class D Vendors may only sell tickets in areas designated for that specific purpose, pursuant to § 573.7.
- 573.7 Class D license holders who provide sightseeing bus services are authorized to vend from public space within ten feet (10 ft.) of a sign designating a stop of the sightseeing bus for which the person is selling tickets; provided, that the sign has been permitted and approved by the DDOT Director pursuant to § 3306 of Chapter 33 of Title 24 of the DCMR. No structure or fixture, including “A” frame signs, podiums, kiosks, or any other material, whether temporary or permanent, shall be placed in public space.

SUBCHAPTER H: MISCELLANEOUS PROVISIONS

574 VENDING DEPOT REQUIREMENTS

- 574.1 Vending depots servicing vending vehicles or carts with Class A Vending Business Licenses shall provide all of the following services to a vendor in accordance with Chapter 37, Subtitle A (Food and Food Operations) of Title 25 of the DCMR:
- (a) Storage of the vending vehicle or cart;
 - (b) Food preparation, including approved food handling areas, as needed;
 - (c) Proper storage of inventory, such as food, utensils and supplies;
 - (d) Basic maintenance and cleaning, including:

- (1) Hot and cold water;
- (2) Sloped and properly drained cleaning area;
- (3) Potable water; and
- (4) Electrical outlets; and

(d) Proper disposal of trash and food waste, such as garbage and liquid.

574.2 The operator of a vending depot shall maintain a ledger that includes current information on the name, license number, and address of each vendor and supplier doing business with the operator. This ledger shall be made available during regular business hours for inspection by any duly authorized District government agent in accordance with § 3701, Subtitle A of Title 25 of the DCMR.

574.3 The operator of a vending depot may offer additional services to a vendor, such as the wholesale sale of food or beverages or towing services; provided, that the vending depot shall not require that a vendor accept any additional services as part of the contract to provide the minimum services set forth in § 574.1.

574.4 The operator of a vending depot shall:

- (a) Comply with all applicable laws and regulations regarding registration of the person's business with the Office of Tax and Revenue and DCRA;
- (b) Obtain all necessary business licenses from DCRA; and
- (c) Comply with the Subtitle A of Title 25 of the DCMR and all applicable standards imposed by DOH or other relevant agencies.

575 PENALTIES

575.1 A person violating any provision of this chapter may be issued a civil infraction pursuant to Chapter 33 of Title 16 of the DCMR.

575.2 A fine imposed under this section shall be imposed and adjudicated pursuant to Titles I—III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.01, *et seq.* (2007 Repl. & 2012 Supp.)).

575.3 Any fines issued pursuant to this section may be in addition to the revocation or suspension of a vendor's Vending Business License or Vending Site Permit.

576 SEVERABILITY

576.1 If any provision of this chapter, or the application of any provision of this chapter, is held invalid in any circumstance, the validity of the remainder of the provisions

of this chapter, and the application of any provision in any other circumstance, shall not be affected; and to this end, the provisions of this chapter shall be severable.

599 DEFINITIONS

599.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Central Vending Zone – the area delineated by the boundaries listed in § 526.1.

Clean Hands Certification – the certification required by the Clean Hands Before Receiving a License or Permit Act of 1996, effective May 11, 1996 (D.C. Law 11-118; D.C. Official Code §§ 47-2861, *et seq.* (2012 Supp.)).

Coordinating Agencies – the several District agencies identified in § 570.4.

Coordinating Agency – any of the Coordinating Agencies.

DCRA Director – the Director of the Department of Consumer and Regulatory Affairs.

DCRA – the Department of Consumer and Regulatory Affairs.

DCRA Business Licensing Center – the Department of Consumer and Regulatory Affairs, 1100 Fourth Street, SW, Second Floor, Washington, D.C. 20024.

DDOT – the District Department of Transportation.

DDOT Director – the Director of the District Department of Transportation.

DOH – the Department of Health.

DOH Director – the Director of the District Department of Health.

FEMS – the District of Columbia Fire and Emergency Medical Services Department.

Fire Chief – the Chief of the District of Columbia Fire and Emergency Medical Services Department.

Fire Marshal – the Fire Marshal of the District of Columbia Fire and Emergency Medical Services Department.

Fixture – any District government-authorized furniture or equipment that is secured or permanently affixed to the public right-of-way or other public space.

Food – any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum as defined in the Food Code.

Food Code – Subtitle A (Food and Food Operations) Title 25 of the District of Columbia Municipal Regulations.

Ice cream vending vehicle - a vending vehicle, vending cart, or vending stand from which pre-packaged ice cream, popsicles, ice sherbets or frozen desserts of any kind are carried for the purposes of vending in public space.

Metrobus Stop Zone – that area of the public roadway specifically designated for the exclusive use of Metrobus in loading and unloading passengers.

Mobile Roadway Vendor - a vendor who operates a vending business in locations, pursuant to the requirements of §§ 533 through 536, while occupying public space in that portion of a street or highway that is improved, designed, or ordinarily used for vehicular parking.

Mobile Roadway Vending location – A vending location containing at least three parking spaces, and designated by appropriate signage.

Mobile Roadway Vending vehicle – A self-propelled vending vehicle.

MPD – the Metropolitan Police Department.

MPD Chief – the Chief of the Metropolitan Police Department.

Nationals Park Vending Zone – the Vending Locations designated in § 529.1.

Neighborhood Vending Zones – any of the several areas delineated by the boundaries in § 528.1.

Old Georgetown – the area delineated by the boundaries in § 527.1.

Old Georgetown Vending Zone – the area designated by § 527.2.

Person – any individual or business entity.

Public and private market – a vending operation which takes place in an area of public space set aside and permitted on a regular basis for the sale of goods, merchandise, and services provided on site. The terms “public market” and “private market” may include a farmers market, flea market, antiques market, or other similar type of market.

Public space – all publicly-owned property between property lines on a street, as such property lines are shown on the records of the District of Columbia, including any roadway, tree space, sidewalk, or parking area between property lines.

Registered agent – any person who maintains a residence or business address in the District of Columbia and is authorized by a vendor and agrees to accept service of process and legal notices on behalf of a vendor.

Roadway vendor – a vendor who operates a vending business while occupying public space in that portion of a street or highway that is improved, designed, or ordinarily used for vehicular parking.

School day – the period from 9:00 a.m. to 3:00 p.m. on a regular instructional day during the school year of the District of Columbia Public Schools, as defined in DCMR Title 5, Subtitle E, § 305.

Sidewalk vendor – a vendor at a sidewalk Vending Location who engages in business while occupying a portion of the public right of way other than that reserved for vehicular travel.

Special Event – an activity, such as shows and exhibits of any kind, conventions, parades, circuses, sporting events, fairs, and carnivals, held for a limited period at a designated location on public space and authorized by the Mayor, pursuant to D.C. Official Code § 47-2826 (2005 Repl.).

Stationary roadway vendor – a vendor who operates a vending business while occupying a fixed location with a valid vending site permit in an assigned roadway vending location as designated in § 531;

Street photography – the business of operating on public space and taking photographs, for profit or gain, of any person or persons upon public space with the intent to immediately, or within a reasonably brief time, deliver the photograph to the purchaser.

VDZ – shall have the same meaning as a Vending Development Zone.

Vending business – a business venue for the vending of food, products, services, or merchandise and operated by a licensed vendor.

Vending Business License – the basic business license with a vending endorsement issued by the Department of Consumer and Regulatory Affairs.

Vending cart – a wheeled, non-motorized, self-contained apparatus designed to be pulled by a vehicle or pushed by hand, designed to be operated from a sidewalk Vending Location, and from which food, products, merchandise, or services are intended to be vended.

Vending depot – any business that supplies vendors with merchandise, products, or food items, or that, for a fee, stores, services or maintains vending stands, carts, or vehicles.

Vending Development Zone – a specific vending area created pursuant to § 570.

Vendor Employee Identification Badge – the badge issued by the Director of the Department of Consumer and Regulatory Affairs to a person employed by a licensed vendor pursuant to § 564.

Vending establishment – the actual structure that will constitute the means by which a vendor will offer goods or food for sale to the public, including vending vehicles, vending stands, and vending carts.

Vending Location – any of the locations in the public space identified by the Director of the District Department of Transportation as being suitable for vending.

Vending Site Permit – the permit issued by the Director of the Department of Consumer and Regulatory Affairs allowing for vending from the public space at a specified Vending Location.

Vending stand – a table or other similar approved structure used by a vendor for displaying merchandise, products, or food that is offered for sale, or offering a service in exchange for a fee.

Vending vehicle – a wheeled, self-contained vehicle used for the purpose of selling food, merchandise, products, or services upon the area of a street generally reserved for vehicular traffic or vehicular parking. The term “vending vehicle” may include trailers and self-propelled vehicles.

Vendor – any person engaged in selling goods and services exclusively from the public space and for the immediate delivery upon purchase.

Chapter 5 (Basic Business License Schedule of Fees) of Title 17 (Business, Occupations and Professions) of the DCMR is amended as follows:

Subsection 516.1 is amended to read as follows:

- 516.1 The Director shall charge fees for business license categories with a General Business endorsement as follows:
 - (a) Charitable solicitation: \$280;
 - (b) Cooperative association: \$37;
 - (c) General business: \$200; and
 - (d) Street vendor (Class C): \$433.

Chapter 33 (Department of Consumer & Regulatory Affairs (DCRA) Infractions) of Title 16 (Consumers, Commercial Practices, and Civil Infractions) of the DCMR is amended by adding a new Section 3313 (Vending Business License Infractions) to read as follows:

3313 VENDING BUSINESS LICENSE INFRACTIONS

- 3313.1 Violation of any of the following provisions shall be a Class 1 infraction:
- (a) 24 DCMR § 502.1 (failure to have and maintain general license requirements);
 - (b) 24 DCMR §§ 503.3(f), (g), (h), and (i) (selling alcohol, drugs, controlled substances, or drug paraphernalia);
 - (c) 24 DCMR § 507.1 (suspension or revocation of license for the enumerated violations);
 - (d) 24 DCMR § 512.1 (suspension or revocation of vending site permit for the enumerated violations);
 - (e) 24 DCMR § 516 (suspension or revocation of Mobile Roadway vending site permit for the enumerated violations);
 - (e) 24 DCMR § 535.1 (vending in an unauthorized roadway vending location);
 - (f) 24 DCMR § 541.1 (vending from an unauthorized public market);
 - (g) 24 DCMR § 541.2 (managing a public market without a Class C vending business license);
 - (h) 24 DCMR § 551.2 (vending after the expiration of a vending business license, vending site permit, or any other required license, permit, certificate or authorization); and
 - (i) 24 DCMR § 562.3 (alteration, mutilation, forgery, or illegal display of any license, permit, or certificate of authority).
- 3313.2 Violation of any of the following provisions shall be a Class 2 infraction:
- (a) 24 DCMR §§ 503.3 (a), (j), (k), and (l) (selling animals, offensive merchandise, or counterfeit merchandise);
 - (b) 24 DCMR § 508.4 (vending at unauthorized vending location);
 - (c) 24 DCMR § 517.1 (vending without a health inspection certificate issued by the Department of Health);
 - (d) 24 DCMR § 521.1 (vending without a Department of Health-issued food protection manager certificate or food protection manager identification card);

- (e) 24 DCMR § 522.1 (vending without a propane or open flame permit issued by the Fire and Emergency Medical Services Department);
- (f) 24 DCMR § 523.1 (vending without a hood suppression system approved by the Fire and Emergency Medical Services Department);
- (g) 24 DCMR § 527.1 (vending at unauthorized vending locations in the Old Georgetown vending zone);
- (h) 24 DCMR § 533.7 (mobile vending within 500 feet of designated MRV location);
- (i) 24 DCMR § 534.5 (vending in designated MRV location beyond the authorized hours of operation);
- (j) 24 DCMR § 538.5 (transfer of sidewalk vending lottery registration or sidewalk vending location assignment);
- (k) 24 DCMR § 539.9 (transfer of roadway vending lottery registration or roadway vending location assignment);
- (l) 24 DCMR § 540 (mobile vending in an unassigned designated MRV location);
- (m) 24 DCMR § 540.5 (transfer of designated MRV location permit assignments, without approval);
- (n) 24 DCMR § 538.1 (vending in unassigned vending location);
- (o) 24 DCMR § 543 (ice cream vendor remaining in one place longer than necessary to make a sale after being approached or stopped for that purpose)
- (p) 24 DCMR § 556.1 (vending without fire extinguisher);
- (q) 24 DCMR § 556.2 (failure to adhere to propane operating standards);
- (r) 24 DCMR § 562.6 (failure to provide license, permits, or certificates to authorized District government representative);
- (s) 24 DCMR §§ 562.4 and 562.5 (vending license, permits, or certificates placed on an unauthorized vending vehicle, cart, or stand);
- (t) 24 DCMR § 563.1 (failure of vending vehicle or cart to be registered and displaying current tags);

- (u) 24 DCMR § 571.2 (failure of vendor vending at licensed special event to comply with business registration and license requirements);
- (v) 24 DCMR § 573 (unauthorized soliciting);
- (w) 24 DCMR § 573.6 (buying or selling tickets in an area not designated for that purpose); and
- (x) 24 DCMR § 574 (vending depot operating requirements).

3313.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 24 DCMR § 552.1 (vending beyond the authorized hours of operation);
- (b) 24 DCMR § 557.1 (vending while creating a noise disturbance); and
- (c) 24 DCMR §§ 564.1, 564.3, 564.4, and 564.7 (failure to adhere to vendor employee operating requirements).

3313.4 Violation of any of the following provisions shall be a Class 5 infraction:

- (a) 24 DCMR § 503.2 (vending items not authorized under the vending business license class);
- (b) 24 DCMR § 525.1(d) (vending at unauthorized locations in the central vending zone);
- (c) 24 DCMR § 525.1(e) (vending at unauthorized locations outside the central vending zone);
- (d) 24 DCMR § 525.1(f) (vending at unauthorized vending locations);
- (e) 24 DCMR § 545 (failure to adhere to vending cart design standards);
- (f) 24 DCMR § 546 (failure to adhere to vending vehicle design standards);
- (g) 24 DCMR § 5547 (failure to adhere to vending stand design standards);
- (h) 24 DCMR § 548 (failure to adhere to food vending cart or vehicle design standards);
- (i) 24 DCMR § 549 (failure to adhere to advertising design standards);
- (j) 24 DCMR § 551.3 (vending while violating traffic or parking restrictions);

- (k) 24 DCMR §§ 553.2, 553.3, and 553.4 (placement of vending vehicles, carts, or stands);
- (l) 24 DCMR § 554 (placement of equipment and related items);
- (m) 24 DCMR § 562.1 (failure to conspicuously display all vending-related licenses, permits, and other certificates);
- (n) 24 DCMR § 565.1 (vending while failing to maintain vending location free from litter);
- (o) 24 DCMR §§ 560, 561, 562, and 563 (failure to adhere to mobile roadway vehicle operating standards);
- (p) 24 DCMR § 567 (purchase or receipt of stock in public space)
- (q) 24 DCMR § 569.1 (failure to provide updated information);
- (r) 24 DCMR § 572 (failure to adhere to street photography operating standards); and
- (s) Any provision of the vending business license regulations promulgated pursuant to the Vending Regulation Act of 2009, effective October 22, 2009 (D.C. Law 18-71; 56 DCR 6619), which is not cited elsewhere in this section.

All persons desiring to comment on these proposed regulations should submit comments in writing to Helder Gil, Legislative Affairs Specialist, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, SW, Room 5164, Washington, D.C. 20024, or via e-mail at DCVendingRegs@dc.gov, not later than twenty-one (21) days after publication of this notice in the *D.C. Register*. All comments submitted in response to the Fourth Notice of Proposed Rulemaking (60 DCR 2869) will be added to the record of comments submitted in response to this Corrected Notice. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar (\$1) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the DCRA website at <http://dcra.dc.gov> by going to the “Featured News” section on the main page.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.* (2007 Repl. & 2012 Supp.)), as amended, and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of its intent to adopt the following amendment to §4611 of Chapter 46 (Medicine) of Title 17 (Business, Occupations, and Professions) of the District of Columbia Municipal Regulations. The proposed amendment will repeal provisions pertaining to practice by medical students within the course of the medical school curriculum; reduce the paperwork that the Health Regulations and Licensing Administration (HRLA) will receive from each applicant, thereby streamlining the application process and reducing waste; require a late fee for late renewal applications; require a late fee for applications received after the new application deadline; establish the maximum amount of hours the holder of a medical training license or registration may practice per week; restrict the Medical Training Registration program to postgraduate physicians in a clinical training residency program; rearrange the existing content to better organize the section; define key terms; and clarify the language in numerous provisions to increase comprehension by the reader. The proposed amendment adheres to the statutory provisions of the Board of Medicine Membership and Licensing Amendment Act of 2012 (Act), effective March 14, 2012 (D.C. Law 19-104; 59 DCR 435).

Currently, the regulations that this proposed rulemaking seeks to amend contain *ultra vires* provisions that do not conform with the Act. This rulemaking will repeal those provisions. Furthermore, after conferring with graduate medical education program directors of District of Columbia medical institutions, it became apparent to the Board of Medicine that confusion and ambiguity existed in the interpretation of the existing regulations. This rulemaking will clarify the existing provisions and, therefore, reinforce a more structured and more uniform system of administration which will ultimately make for a better training experience for, and enhance the technical proficiency of, the postgraduate medical trainees. In order to avoid entering the Medical Training Licensing year under invalid and ambiguous provisions, the proposed rulemaking will have a truncated comment period, thereby allowing HRLA to commence licensing the incoming class of trainees for the start of the new training year under clear and valid regulations. The Director hereby gives notice of the intent to adopt this rule, in final, in not less than five (5) days from the date of publication of this notice in the *D.C. Register*.

SECTION 4611, PRE-LICENSURE PRACTICE BY STUDENTS AND POSTGRADUATE PHYSICIANS, OF CHAPTER 46, MEDICINE, OF TITLE 17, BUSINESS, OCCUPATIONS, AND PROFESSIONS, is amended as follows:

Delete the present Section 4611 and substitute the following section and language:

4611 PRE-LICENSURE PRACTICE BY POSTGRADUATE PHYSICIANS

4611.1 For purposes of this section, the following terms have the meanings indicated:

“Postgraduate physician” means:

- (a) A person who: (1) holds a degree in medicine or osteopathy; and (2) is enrolled in a postgraduate clinical training residency program prior to licensure in any jurisdiction in the U.S.; or
- (b) A person who: (1) has completed a residency program in a postgraduate clinical training program; (2) is enrolled in a postgraduate clinical training fellowship program; and (3) is licensed in any jurisdiction in the U.S..

“Medical training license” means a limited medical license issued only to a postgraduate physician.

“Medical training registration” means documentation and assignment of a registration number to a registrant, as defined in this chapter, only for the purpose of participating in a rotation within a postgraduate clinical training residency program.

“Medical training license” means a person who holds a valid medical training license issued by the Board.

“Medical training registrant” means a person who is enrolled in a postgraduate clinical training residency program in the District, participating in a rotation within that program for no more than 90 days.

4611.2 Medical training licenses shall be classified as follows:

- (a) Type I (A), who are qualifying applicants that are U.S. or Canadian medical school-trained postgraduate physicians;
- (b) Type I (B), who are qualifying applicants that are foreign medical school-trained postgraduate physicians enrolled in a postgraduate clinical training residency program; or
- (c) Type II, who are qualifying applicants that are foreign trained medical physicians participating in an Accreditation Council for Graduate Medical Education (ACGME), American Osteopathic Association (AOA), or Board approved postgraduate clinical training fellowship program.

4611.3 Unless the postgraduate physician qualifies for, and receives, a medical training license or medical training registration to practice medicine in the

District, a postgraduate physician may not practice medicine in a clinical training program.

4611.4

A postgraduate physician shall do the following:

- (a) Be enrolled with one or more institutions sponsoring the clinical training program(s) describing the terms and conditions of the postgraduate physician's employment, or participation in the program, which shall be kept on file at the sponsoring institution;
- (b) Submit, not later than 90 days prior to the commencement of the postgraduate physician's participation in a clinical training program in the District, the documentation required for a new medical training license application. A postgraduate physician may submit a late application for a new medical training license less than 90 days prior to the commencement of the clinical training program only after paying a late application fee;
- (c) Submit, prior to the commencement of each training year, the documentation required for a medical training license renewal application for review no earlier than March 1st but not later than May 31st of the training year;
- (d) Inform, and permit the training program to notify, the Board in writing when the postgraduate physician leaves a clinical training program before the scheduled ending date of the program, specifying the reason for leaving as academic or nonacademic reasons;
- (e) Grant the Board access to, and permit the training program to disclose, all postgraduate education records, to the extent the disclosure does not violate any District or federal laws;
- (f) Be supervised by a licensed physician who is: (1) a member of the medical staff of the medical institution or medical facility through which the clinical training program takes place; and (2) approved by the clinical training program to be a supervising physician;
- (g) If it is the postgraduate physician's intention to continue to practice medicine in the District, obtain a license to practice medicine in the District within five (5) years of having graduated from a United States or Canadian medical school or upon the completion of a postgraduate clinical training residency program, whichever comes first, unless the postgraduate physician is enrolled in a seven (7) year postgraduate clinical training program in surgery, in which case the postgraduate physician shall obtain a license to practice medicine in the District within seven (7) years of having graduated from a United States or

Canadian medical school or upon the completion of a postgraduate clinical training residency program, whichever comes first;

- (h) Identify himself or herself as such at all times when practicing medicine;
- (i) Comply with the standards of conduct for a licensed physician set forth in this chapter and the Act;
- (j) Practice medicine for no more than the maximum number of hours permitted by the ACGME; and
- (k) Practice medicine only in a clinical training program where the postgraduate physician is enrolled.

4611.5 Unless waived by the Board, a postgraduate physician applying for a medical training license or registration shall submit, as appropriate, or cause to be submitted, to the Board for consideration the following:

- (a) A completed application form, with a signed statement attesting to the truth and accuracy of its contents;
- (b) A photograph taken not more than three (3) months prior to submission, whose dimensions are at least two inches (2 in.) by two inches (2 in.), which shall be affixed to the application;
- (c) The Graduate Medical Education (GME) program director's attestation that the postgraduate physician has graduated from an accredited U.S. or foreign medical school;
- (d) If a graduate of a medical school outside the U.S. or Canada, the original of a currently valid Educational Commission for Foreign Medical Graduates (ECFMG) certification;
- (e) If applicable, documentation verifying name change;
- (f) The results of a criminal background check, completed pursuant to D.C. Official Code § 3-1205.22 (2007 Repl.) and Chapter 85 of this title;
- (g) Payment of the license fee plus the cost of the criminal background check;
- (h) The GME program director's attestation verifying the applicant's acceptance into the program and the commencement date of the program;
- (i) The GME program director's attestation that the applicant for a Type I

medical training license has taken and received a passing score on (1) the United States Medical Licensing Examination (USMLE) Step 1 and both parts of Step 2; or (2) the Comprehensive Osteopathic Medical Licensure Examination (COMLEX) Levels 1 and 2;

- (j) The GME program director's attestation that the applicant for a Type II medical training license has taken and received a passing score on (1) the United States Medical Licensing Exam (USMLE) Step 1, both parts of Step 2, and Step 3; or (2) the Comprehensive Osteopathic Medical Licensure Examination (COMLEX) Levels 1 and 2;
- (k) The GME program director's attestation of the accuracy and veracity of his or her attestations described in § 4611.5. The attestation shall be received by the Board no later than May 31st of each year; and
- (l) If requested, any additional information the Board considers necessary to properly evaluate the applicant's competence and character.

4611.6 Each GME program director shall submit to the Board by March 31st of each year a complete list of ACGME, AOA, and Board approved programs within their training institution including the names, specialty training, and participation year of all participants. The list of ACGME, AOA, and Board approved programs within the training institution, including the names, specialty training, and participation year of all participants may be amended until April 30th of that year.

4611.7 The Board, in its discretion, may waive any requirement for obtaining a medical training license or registration upon good cause.

4611.8 A medical training license shall be issued for a period not to exceed one (1) year.

4611.9 A postgraduate physician, as defined in paragraph 4611.1(a), may practice pursuant to this section for a maximum of five (5) years in a postgraduate clinical training program if the postgraduate physician has a valid agreement with the medical institution sponsoring the clinical training residency program, unless the postgraduate clinical training program is a seven (7) year surgery program, in which case the postgraduate physician may practice pursuant to this section for a maximum of seven (7) years:

- (a) Type I (A) licensees - the five (5) or seven (7) year period for graduates of U.S. and Canadian medical schools shall begin with the graduation from medical school; and
- (b) Type I (B) licensees - the five (5) or seven (7) year period for graduates of foreign medical schools, other than Canadian medical

schools, shall begin at the beginning of an approved U.S. postgraduate clinical training residency program.

- 4611.10 A postgraduate physician, as defined in paragraph 4611.1(b), may renew a Type II license one (1) time pursuant to this section if the postgraduate physician has a valid agreement with the institution, organization, or agency sponsoring the clinical training fellowship program. Any subsequent renewals of a Type II license may be approved at the discretion of the Board.
- 4611.11 A postgraduate physician may be disciplined for conduct that violates the Act or this chapter. The Board may deny an applicant a license, or take other disciplinary action against a student or postgraduate physician who is found to have violated the Act or this chapter, in accordance with Chapter 41 of this title.
- 4611.12 A postgraduate physician shall be exempt from the payment of the application fee, provided such postgraduate physician is participating in a short term, required, ACGME or AOA approved training program rotation of no more than ninety (90) days. Such participants shall enroll as medical training registrants with the Board prior to commencing the rotation. Such participants, if licensed in another state, may either enroll as a medical training licensee or apply for full licensure in the District of Columbia.
- 4611.13 An applicant who submits an application to renew more than sixty (60) days after the expiration date of the medical training license shall be subject to payment of a renewal late fee.

SECTION 3500, FEES, Subsection 3500.1, of Chapter 35, LICENSING FEES, of Title 17, BUSINESS, OCCUPATIONS, AND PROFESSIONS, is amended as follows:

The paragraph MEDICAL TRAINEES is amended to add as follows:

Late Application Fee	\$25.00
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All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than five (5) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent in writing to Kenneth Campbell, Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C., 20002. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9 a.m. to 5 p.m., Monday through Friday, excluding holidays. Requests may be communicated by calling (202) 442-5977 or addressing emails to angli.black@dc.gov.

**DISTRICT OF COLUMBIA
DEPARTMENT OF MOTOR VEHICLES
DISTRICT DEPARTMENT OF TRANSPORTATION**

NOTICE OF PROPOSED RULEMAKING

The Directors of the Department of Motor Vehicles and the District Department of Transportation, pursuant to the authority set forth in Sections 1825 and 1826 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §§ 50-904 and 50-905) (2009 Repl.); Sections 5, 6, and 7 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.04, 50-921.05, and 50-921.06 (2009 Repl. & 2012 Supp.)); Sections 6, 7, and 13 of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code §§ 50-2201.03, 50-1401.01 and 50-1403.01 (2009 Repl. & 2012 Supp.)); Section 105 of the District of Columbia Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law. 2-104; D.C. Official Code § 50-2301.05) (2009 Repl.); Sections 3 and 10 of the Uniform Classification and Commercial Driver's License Act of 1990, effective September 20, 1990 (D.C. Law 8-161; D.C. Official Code §§ 50-402 and 50-409 (2009 Repl. & 2012 Supp.)); Section 801 of the Motor Vehicle and Safe Driving Amendment Act of 2000, effective April 27, 2001 (D.C. Law 13-289; D.C. Official Code § 50-921 (2009 Repl.)); Mayor's Order 77-127, dated August 3, 1977; and Mayor's Order 91-161, dated October 15, 1991, hereby gives notice of the intent to adopt the following rulemaking amending Chapter 3 (Cancellation, Suspension, or Revocation of Licenses), Chapter 7 (Motor Vehicle Equipment), Chapter 13 (Classification and Issuance of Commercial Driver's Licenses), Chapter 22 (Moving Violations), Chapter 26 (Civil Fines for Motor Vehicle Moving Infractions), and Chapter 99 (Definitions) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR). The proposed rulemaking will create a new vehicle classification called the "Multi-Purpose School Vehicle" and will establish certain standards for the operation of multi-purpose school vehicles.

This rulemaking shall be submitted to the Council of the District of Columbia for a forty-five (45) day review period, excluding Saturdays, Sundays, legal holidays, and days of Council recess. Pursuant to D.C. Official Code § 50-921 (2009 Repl.), the proposal shall be deemed approved except that if within the 45-day period a resolution of disapproval has been introduced by three (3) members of the Council, the regulations shall not be deemed approved.

Final rulemaking action may be taken thirty (30) days after the date of publication of this notice in the *D.C. Register*, or the completion of the forty-five (45) day Council review period for these rules, whichever is later.

Title 18 (VEHICLES AND TRAFFIC) of the DCMR is amended as follows:

Chapter 3, CANCELLATION, SUSPENSION, OR REVOCATION OF LICENSES is amended as follows:

Section 303 ESTABLISHMENT OF A POINT SYSTEM is amended as follows:

Subsection 303.2(u) is amended to add that a driver of a motor vehicle will be assessed points for failing to stop for a multi-purpose school vehicle with warning lights flashing or stop signal arm actuated, or for a school bus when the stop signal arm is actuated, so that the provision reads as follows:

- (u) Failing to stop for a school bus or multi-purpose school vehicle with warning lights or stop signal arm actuated 4 points

Chapter 7, MOTOR VEHICLE EQUIPMENT, is amended as follows:

Section 712, AUDIBLE AND VISUAL SIGNALS, is amended as follows:

Subsection 712.5 is amended to add multi-purpose school vehicles so that the provision reads as follows:

712.5 Each school bus and multi-purpose school vehicle registered in the District of Columbia shall be equipped with red flashing signal lamps. The lamps shall be mounted as high and as widely spaced laterally as practicable, and shall be capable of displaying to the front two (2) alternately flashing red lights located at the same level and to the rear two (2) alternately flashing red lights located at the same level.

Subsection 712.6 is amended to add multi-purpose school vehicles so that the provision reads as follows:

712.6 School buses designed to carry fifteen (15) or fewer passengers and multi-purpose school vehicles shall have the lamps mounted on the roof; provided, that any school bus which, prior to February 14, 1971, was in compliance with then existing requirements shall not be required to change the location of the lamps.

Section 739, SLOW-MOVING VEHICLES AND SCHOOL BUSES, is amended as follows:

The title of Section 739 is amended to add multi-purpose school vehicles so that the title reads as follows:

SLOW-MOVING VEHICLES, SCHOOL BUSES AND MULTI-PURPOSE SCHOOL VEHICLES

Subsection 739.11 is amended to add multi-purpose school vehicles so that the provision reads as follows:

739.11 A school bus or multi-purpose school vehicle shall bear on its sides only signs and lettering approved by the Director.

A new Subsection 739.14 is added to require school buses and multi-purpose school vehicles to be equipped with a swinging driver's side stop signal arm so that the provision reads as follows:

739.14 Each school bus and multi-purpose school vehicle shall be equipped with a swinging driver's side stop signal arm, as follows:

- (a) The stop signal arm shall be octagonal and shall bear the word "STOP" on both sides in white letters on a red background with a white border;
- (b) The stop signal arm shall be affixed as close as possible on the outside of the vehicle appurtenant to the driver's window;
- (c) The stop signal arm shall be actuated by the driver to extend perpendicularly from the side of the school bus or multi-purpose school vehicle upon actuation of the warning lamps described in § 712.5 to ensure safe pick up or drop off of students from the vehicle.

Chapter 13, CLASSIFICATION AND ISSUANCE OF COMMERCIAL DRIVER'S LICENSES, is amended as follows:

Section 1305, COMMERCIAL DRIVER'S LICENSE REQUIRED, is amended as follows:

Subsection 1305.1 is amended to require that a driver of a multi-purpose school vehicle have a commercial driver's license so that the provision reads as follows:

1305.1 No resident of the District of Columbia shall drive a commercial vehicle unless he or she has been issued a valid commercial driver's license or a valid commercial driver's instruction license, which authorizes him or her to operate the following types of vehicles:

- (a) A single vehicle, or a combination of vehicles, with a gross vehicle weight rating of over twenty-six thousand (26,000) pounds, or a lesser rating as determined by Federal regulations, but not less than a gross vehicle weight rating of ten thousand (10,000) pounds;
- (b) A vehicle designed to transport more than fifteen (15) passengers, including the driver;
- (c) A vehicle used to transport a material found to be hazardous in accordance with the District of Columbia Hazardous Materials Transportation and Motor Carrier Safety Act of 1988, effective March 16, 1989 (D.C. Law 7-190; D.C. Official Code § 8-1401 *et seq.*) and that are required to be placarded under Federal regulations, 49 CFR Part 172, Subpart F; or

- (d) A school bus or a multi-purpose school vehicle.

Section 1313, DRIVER'S LICENSE ENDORSEMENTS AND RESTRICTIONS, is amended as follows:

Subsection 1313.1 is amended to require that a driver of a multi-purpose school vehicle be required to have a school bus endorsement so that the provision reads as follows:

1313.1 The following driver's license endorsements shall be displayed on a driver's license in order for the driver to operate certain types of motor vehicles or to operate motor vehicles hauling certain types of cargo:

- (a) The Double/Triple Endorsement is required to operate a vehicle designed to pull more than one (1) trailer;
- (b) The Transport Passenger Endorsement is required to operate a vehicle that transports more than fifteen (15) passengers;
- (c) The School Bus Endorsement is required to operate a school bus or a multi-purpose school vehicle;
- (d) The Tank Vehicle Endorsement is required to operate a vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. The vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 39 CFR Part 171. However, this definition does not include portable tanks having a rated capacity under one thousand (1,000) gallons;
- (e) The Hazardous Material Endorsement is required to operate a vehicle transporting a hazardous material that is required to be placarded under the District of Columbia Hazardous Materials Transportation and Motor carrier Safety Act of 1988, effective March 16, 1989 (D.C. Law 7-190; D.C. Official Code § 8-1401 *et seq.*), or by the U.S. Secretary of Transportation in accordance with the Hazardous Material Transportation Act, approved January 3, 1975 (88 Stat. 2156; 49 U.S.C. 1801 *et seq.* and 49 CFR Part 383, § 121);
- (f) The Motorcycles Endorsement is required on a Class "A," Class "B," Class "C," or Class "D" driver's license to permit the licensee to operate a motorcycle in addition to the class of vehicles designated on the driver's license;
- (g) The Class "A" Commercial Driver's Instruction License Endorsement is required with a Class "B," Class "C," or Class "D" driver's license to

permit the licensee to operate a Class "A" vehicle if accompanied by the holder of a Class "A" driver's license;

- (h) The Class "B" Commercial Driver's Instruction License Endorsement is required with a Class "C" or Class "D" driver's license to permit the licensee to operate a Class "B" vehicle if accompanied by the holder of a Class "A" or Class "B" driver's license; and
- (i) The Class "C" Commercial Driver's Instruction License Endorsement is required with a Class "D" driver's license to permit the licensee to operate a Class "C" vehicle if accompanied by the holder of a Class "A," Class "B" or Class "C" driver's license.

Chapter 22, MOVING VIOLATIONS, is amended as follows:

Section 2209, RIGHT-OF-WAY: SCHOOL BUSES, is amended as follows:

The title of Section 2209 is amended to add multi-purpose school vehicles so that it reads as follows:

RIGHT-OF-WAY: SCHOOL BUSES AND MULTI-PURPOSE SCHOOL VEHICLES

Subsection 2209.1 is amended to add that a driver approaching a school bus or a multi-purpose school vehicle on which a warning light is flashing or a stop signal arm is actuated shall stop not less than fifteen feet (15 ft.) from the bus or school vehicle, so that the provision reads as follows:

2209.1 The driver of a vehicle approaching from any direction a school bus or a multi-purpose school vehicle on which a warning light is flashing or a stop signal arm is actuated, shall bring the vehicle to a complete stop not less than fifteen feet (15 ft.) from the school bus or multi-purpose school vehicle; provided, that this requirement shall not apply to a driver approaching a school bus or multi-purpose school vehicle from the opposite direction on a street with a median strip divider.

Subsection 2209.2 is amended to add that a driver who has stopped for a school bus or a multi-purpose school vehicle shall not proceed until the warning lights are no longer flashing and the stop signal arm is no longer actuated so that the provision reads as follows:

2209.2 A driver who has stopped for a school bus or multi-purpose school vehicle in accordance with this section shall not proceed until the warning lights are no longer flashing and the stop signal arm is no longer actuated.

Chapter 26, CIVIL FINES FOR MOTOR VEHICLE MOVING AND NON-MOVING INFRACTIONS, is amended as follows:

Section 2600.1, CIVIL FINES FOR MOTOR VEHICLE MOVING, is amended as follows:

Subsection 2600.1 is amended by adding multi-purpose school vehicle to the school bus provision fining a driver of another motor vehicle for failing to stop when a light is flashing, and also adding that a driver of a motor vehicle shall be fined when either a school bus or a multi-purpose school vehicle actuates the stop signal arm, so that the provision reads as follows:

2600.1 The following civil infractions and their respective fine amounts set forth in this section do not include those major moving violations for which jurisdiction remains in the Superior Court:

INFRACTION [18 DCMR Citation]	FINE
...	
...	
School bus	
Passing stopped bus or multi-purpose school vehicle when light flashing or stop signal arm activated [§ 2209]	\$500
...	

Chapter 99, DEFINITIONS is amended as follows:

Section 9901, DEFINITIONS, is amended by adding a definition for multi-purpose school vehicle to read as follows:

Multi-purpose school vehicle – a vehicle:

- (a) Used for transportation of less than eight (8) passengers, exclusive of the driver, to and from school or for education-related services; and
- (b) With a Gross Vehicle Weight Rating (GVWR) less than ten thousand (10,000) pounds.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing to David Glasser, General Counsel, D.C. Department of Motor Vehicles, 95 M Street, S.W., Suite 300, Washington, D.C. 20024. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register*. Copies of this proposal may be obtained, at cost, by writing to the above address.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**NOTICE OF PROPOSED RULEMAKING**

The State Superintendent of Education, pursuant to the authority set forth in Article II of An Act to provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, as amended, effective February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-201 *et seq.* (2001 ed. & 2012 Supp.)); as amended by Section 302 of the South Capitol Street Memorial Amendment Act of 2012, effective June 7, 2012 (D.C. Law 19-141, 59 DCR 3083, (April 20, 2012); to be codified at D.C. Official Code §§ 38-201 *et seq.*); Mayor's Order No. 2012-116, dated July 26, 2012; Sections 3(b)(11), 3(b)(15) and 7c of the State Education Office Establishment Act of 2000, as amended, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§ 38-2602(b)(11), 2602(b)(15) and 2609(c)(2) (2012 Supp.)); and Section 403 of the State Board of Education Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code §38-2652(a)(14) (2012 Supp.)); hereby gives notice of her intent to amend, in not less than thirty (30) days after the publication of this notice in the *D.C. Register*, Chapter 21 (Compulsory Education and School Attendance) of Subtitle A (Office of the State Superintendent of Education) of Title 5 (Education) of the District of Columbia Municipal Regulations (DCMR). This proposal takes into consideration public comments received on the proposed rules published on January 4, 2013 (60 DCR 38). This proposal also takes into consideration public comments made at a State Board of Education meeting on February 20, 2013.

The Office of the State Superintendent of Education ("OSSE") is responsible for enforcing compliance with the compulsory education and attendance laws in the District of Columbia and ensuring that all school-age children regularly attend school.

School attendance data is a primary source of early warning signs to identify students at risk and provide opportunities for them to receive intervention services. A student who intermittently attends school misses key steps in the instructional process. Student absence affects student performance and progressive ability to master concepts in math, science and reading. Further, data indicates that truancy is a warning sign that a student may be experiencing behavioral health issues.

This proposed rule implements provisions in the South Capitol Amendment Act strengthening early identification and intervention for chronic absenteeism as well as truancy by: (1) standardizing the tracking and calculation of absenteeism and truancy across the District; (2) requiring schools to designate an attendance monitor and implement a school-based student support team as an early absenteeism intervention; (3) utilizing attendance data to analyze how schools are addressing truancy; and (4) revising procedures related to nonpublic school programs as sufficient for purposes of compulsory education and attendance.

Chapter 21 (Compulsory Education and School Attendance) of Subtitle A (Office of the State Superintendent of Education) of Title 5 (Education) of the DCMR is amended to read as follows:

Chapter 21 COMPULSORY EDUCATION AND SCHOOL ATTENDANCE**2100 GENERAL PROVISIONS**

- 2100.1 The legal authority for this chapter is based upon Article II of An Act to provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, as amended, effective February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-201 *et seq.* (2001 ed. & 2012 Supp.)); as amended by Section 302 of the South Capitol Street Memorial Amendment Act of 2012, effective June 7, 2012 (D.C. Law 19-141, 59 DCR 3083, (April 20, 2012)); to be codified at D.C. Official Code §§ 38-201 *et seq.*; Mayor's Order No. 2012-116, dated July 26, 2012; Sections 3(b)(11), 3(b)(15) and 7c of the State Education Office Establishment Act of 2000, as amended, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§ 38-2602(b)(11), 2602(b)(15) and 2609(c)(2) (2012 Supp.)); and Section 403 of the State Board of Education Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code §38-2652(a)(14) (2012 Supp.)).
- 2100.2 Each school-age child who is a resident of the District of Columbia shall attend a public, independent, private, or parochial school or shall receive private instruction.
- 2100.3 A school-age child and his or her parents or guardians shall be deemed to have met the District of Columbia's compulsory education requirements when the child is enrolled and regularly attends a nonpublic school consistent with Section 2104 of this chapter.
- 2100.4 A school-age child and his or her parents or guardians shall be exempt from the requirements of this chapter if the child:
- (a) Has earned a high school diploma or its equivalent; or
 - (b) Participates in a home schooling program that complies with all District of Columbia laws and regulations.
- 2100.5 Unless otherwise approved by OSSE consistent with Section 2104 herein, a school year for attendance purposes shall include a minimum of one hundred eighty (180) regular instructional days and the following requirements:
- (a) An instructional day shall be at least six (6) hours in length for students, including time allotted for lunch periods, recess, and class breaks;

- (b) The six (6)-hour minimum instructional day requirement shall not be applicable to an evening school program, prekindergarten program, or kindergarten program.

2100.6 Student attendance shall be based upon the number of days the student is in attendance during the entire school year.

2100.7 Daily attendance shall include participation in school-sponsored field trips; participation in an off-site school sponsored or approved activity during a regularly scheduled school day; in-school suspensions; and the number of days a student receives instructional services while expelled or while serving an out-of-school suspension.

2101 ATTENDANCE RECORDS AND REPORTING

2101.1 Each educational institution operating in the District of Columbia shall maintain an accurate, contemporaneous, and daily attendance record for each student who is enrolled in or who attends the educational institution.

2101.2 The requirement to maintain an attendance record for a student who has completed the enrollment process for an educational institution shall begin on the educational institution's first official school day and continue throughout the school year unless the student officially withdraws from the educational institution or transfers to another educational institution. Expulsion or suspension of a student during the school year does not relieve the educational institution of the duty to record and report the student's daily attendance for the school year in which the expulsion or suspension occurred until such time as the student officially enrolls in another educational institution.

2101.3 The attendance record for each student shall contain the following:

- (a) Date(s) of enrollment;
- (b) Daily legible or machine-readable record of daily attendance, noting the student as present or absent for a full or partial school day;
- (c) Determination of the nature of each absence as excused, unexcused; suspension-related; or expulsion-related;
- (d) Date of withdrawal from the educational institution or confirmed transfer to another educational institution, including the name and location of the educational institution to which the student transferred and follow up notation(s) to confirm the child's new placement;
- (e) Dates of each referral to the school-based student support team, the Child and Family Services Agency ("CFSA"), the Court Social

Services Division of the Superior Court of the District of Columbia (“Court Social Services”); or the Office of the Attorney General Juvenile Section (“OAG-Juvenile Section”) related to absenteeism or truancy;

- (f) Dates of marking periods;
- (g) Dates on which a law enforcement officer enforcing compulsory attendance laws returns the student to the educational institution;
- (h) Daily late arrival time with an explanation from parents or guardians, if provided;
- (i) Dates and times of early dismissals from the school day, as authorized by the educational institution;
- (j) Date and brief description of communications with student, parent(s) or guardian(s) with regard to school attendance and absences, including the record of or a cross-reference to the record documenting:
 - (1) Contact with parents, guardians, or other primary caregivers; and
 - (2) Interventions, services, and service referrals related to absences other than those listed in subparagraph (d);
- (k) Underlying causes for student’s absenteeism or truancy as determined by the school-based student support team;
- (l) Action plans and strategies implemented by the school-based student support team to eliminate unexcused absences; and
- (m) Services utilized by the student to reduce unexcused absences.

2101.4 Prior to the beginning of each school year, each educational institution shall designate an attendance monitor(s) to be responsible for collecting, maintaining, and reporting the attendance records required for each student. An attendance monitor(s) shall:

- (a) Receive training on the compulsory attendance laws, regulations, and applicable attendance policies of the District of Columbia and OSSE;
- (b) Maintain records required in Section 2101.3 of this chapter;
- (c) Ensure timely submission to OSSE of attendance records described in paragraphs 2101.3 (a)-(g) of this chapter in conformance with the format and timeframes established by OSSE;

- (d) Submit corrected attendance records to OSSE via an automated, electronic feed, or such other formant as approved by OSSE; and provide any corrections to attendance records within five (5) business days of submission; and
 - (e) Timely respond to OSSE requests for clarification of submitted attendance records.
- 2101.5 The name and contact information of the designated attendance monitor(s) shall be reported by the educational institution to OSSE prior to the first official school day of each school year.
- 2101.6 Within sixty (60) days after the completion of each school year, an educational institution shall submit to OSSE the report described in D.C. Official Code § 38-203(i). Such report shall include attendance information in aggregate form, excluding individual student data.
- 2101.7 Prior to the beginning of each school year, OSSE shall issue a report based upon the attendance records submitted by the educational institution for the prior school year including the following information:
- (a) Truancy rates for each educational institution;
 - (b) Progress in improving attendance and reducing truancy for each educational institution; and
 - (c) Each educational institution's compliance with key attendance and truancy requirements.
- 2101.8 Upon request, an educational institution shall provide to OSSE further information about referrals or services related to a student's chronic absenteeism or to students who are chronically truant.
- (a) OSSE shall report any findings to the educational institution.
 - (b) An educational institution shall submit a corrective action plan to OSSE upon request, within ten (10) business days of receipt of OSSE's findings or as otherwise mutually agreed.
- 2101.9 An educational institution shall maintain attendance records as part of the student's permanent record and for such periods of time as may be otherwise specified by OSSE or applicable laws and regulations.

2102 ABSENCES

2102.1 Any absence, including an absence from any portion of the instructional day, without a valid excuse shall be presumed to be an unexcused absence.

2102.2 An educational institution shall define categories of valid excuses for an absence, which shall include without limitation, the following categories:

- (a) Illness or other bona fide medical cause experienced by the student;
- (b) Exclusion, by direction of the authorities of the District of Columbia, due to quarantine, contagious disease, infection, infestation, or other condition requiring separation from other students for medical or health reasons;
- (c) Death in the student's family;
- (d) Necessity for a student to attend judiciary or administrative proceedings as a party to the action or under subpoena;
- (e) Observance of a religious holiday;
- (f) Lawful suspension or exclusion from school by school authorities;
- (g) Temporary closing of facilities or suspension of classes due to severe weather, official activities, holidays, malfunctioning equipment, unsafe or unsanitary conditions, or other condition(s) or emergency requiring a school closing or suspension of classes;
- (h) Employment or other volunteer work approved by the educational institution, provided that the student is seventeen (17) years of age, and provided further that any excused absences under this paragraph shall not adversely impact the student's academic performance or timely graduation;
- (i) Failure of the District of Columbia to provide transportation in cases where the District of Columbia has a legal responsibility for the transportation of the student;
- (j) Medical or dental appointments for the student;
- (k) Absences to allow students to visit their parent or a legal guardian, who is in the military; immediately before, during, or after deployment; and
- (l) An emergency or other set of circumstances approved by an educational institution.

2102.3 An educational institution shall publish and make available to parents and students the attendance policies and procedures, including without limitation, a list of valid excused absences.

2102.4 An educational institution shall require a written statement from the student's parent or guardian verifying the reason for an absence and shall require that the written statement be provided in advance, if practicable, and, if not practicable, upon the student's return to school.

2103 ABSENTEE INTERVENTION AND SCHOOL-BASED STUDENT SUPPORT TEAMS

2103.1 An educational institution shall implement a specific protocol for absenteeism (absenteeism protocol) including a focus on prevention of unexcused absences, also referred to as truancy, and academic and behavioral interventions to address the needs of students.

2103.2 Each LEA shall incorporate evidence-based practice into its absenteeism protocol, including, without limitation, procedures to address the following:

- (a) A description of valid excused absences consistent with this chapter;
- (b) A process for informing, training, and educating school staff, students, parents, guardians, and the community with regard to enhancing school attendance, implementing truancy reduction methods, administering attendance policies and procedures, and related collaborative services; and
- (c) Procedures for monitoring, reporting, addressing, and evaluating attendance and absences consistent with District of Columbia attendance and absence reporting requirements including:
 - (1) A procedure requiring reasonable and diligent attempts to make personal contact with the parent or guardian of a student, on the same day and each time a student has the equivalent of one (1) day of unexcused absence, with daily follow-ups as necessary;
 - (2) A continuum of school practices and services including meaningful supports, incentives, intervention strategies, and consequences for dealing with absenteeism and consultation with parents or guardians, both at the onset of absenteeism and in those circumstances where chronic absenteeism persists, which continuum shall not include off-site suspension and/or expulsion as intervention strategies;

- (3) A referral process whereby within two (2) school days after a student has accumulated five (5) or more unexcused absences in one (1) marking period or other similar time frame, the student shall be referred to a school-based student support team which will meet within two (2) school days of the referral and regularly thereafter to:
 - (A) Review and address the student's attendance and determine the underlying cause(s) for the student's unexcused absences;
 - (B) Employ reasonable and diligent efforts to communicate and to collaborate with the student and parent(s)/guardian(s);
 - (C) Communicate and/or collaborate with the student's existing Individualized Education Program (IEP) team, as applicable;
 - (C) Provide timely response to the student's truant behavior;
 - (D) Make recommendations for academic, diagnostic, or social work services;
 - (E) Use school and community resources to abate the student's truancy including referral to a community-based organization when available; and
 - (F) Develop and implement an action plan in consultation with the student and student's parents or guardian;
- (4) A student who accumulates ten (10) unexcused absences at any time during a school year shall be considered to be chronically truant. The school-based student support team assigned to the student shall notify the school administrator within two (2) school days after the tenth (10th) unexcused absence with a plan for immediate intervention including delivery of community-based programs and any other assistance or services to identify and address the student's needs on an emergency basis;
- (5) A process including specific due process procedures, for a parent, guardian, or student to appeal any attendance violation decisions made by the educational institution; and

- (6) A process to ensure that the LEA maintains complete, accurate, and contemporaneous records of the work of the school-based student support team to reduce unexcused absences, including records of all meetings that take place after a student accumulates five (5) or more unexcused absences in one (1) marking period or other similar time frame and after a student accumulates ten (10) unexcused absences at any time during a school year.

2103.3 In addition to the report required at the end of each school year pursuant to D.C. Official Code § 38-203(i), OSSE may request, and an educational institution shall provide to OSSE, student-level data and records evidencing the work of school-based student support teams.

2103.4 A school-based student support team shall be guided by the following principles:

- (a) Prior to performing school-based student support team functions, appointed team members shall be provided training on the compulsory attendance laws, regulations, and policies of the District of Columbia and OSSE; absenteeism and truancy intervention strategies and best practices; and available remedies and services to ameliorate the causes of absenteeism and truancy;
- (b) A school-based student support team shall include the educational institution's designated attendance monitor;
- (c) Core school-based student support team membership should typically include:
 - (1) General education teacher;
 - (2) School nurse, psychologist, counselor, and/or social worker, if applicable; and
 - (3) School administrator with decision-making authority.
- (d) Selection of additional members of a team should be guided by the needs of the particular student, such as:
 - (1) IDEA/Section 504 coordinator and/or special education personnel;
 - (2) Early learning/Head Start teacher;
 - (3) Bilingual or English as a second language teacher;

- (4) Representatives of CFSA and/or Department of Youth Rehabilitation Services (DYRS);
- (5) McKinney-Vento homeless liaison; and/or
- (6) Guardian *ad litem*.

2103.5 Each educational institution shall develop a process to refer students to District of Columbia entities under the following circumstances:

- (a) Students ages five (5) through thirteen (13) shall be referred by the educational institution to the CFSA no later than two (2) school days after:
 - (1) The accrual of ten (10) unexcused absences within one (1) school year; or
 - (2) Immediately at any time that educational neglect is suspected;
- (b) Until the 2014-15 school year, students age fourteen (14) and over shall be referred by the educational institution to the Court Social Services and to the OAG-Juvenile Section no later than two (2) school days after the accrual of twenty-five (25) unexcused absences at any time within one (1) school year. Beginning with the 2014-15 school year, such referral shall be made after the accrual of twenty (20) or more unexcused absences; and
- (c) Development of the referral process and the individual referrals made pursuant to that process may occur at the educational institution level or at the LEA level, as appropriate.

2103.6 Copies of the following documents shall be provided with a referral made pursuant to this chapter:

- (a) The student's attendance and absence record;
- (b) Any prevention and intervention plans;
- (c) Documentation related to referrals and outcome of such referrals;
- (d) Documentation representing evidence of communications, services, and attendance related interventions taken by the school;
- (e) Documentation of suspected educational neglect;

- (f) Documentation of personal contacts with, and written notification to, parents or guardians with regard to the unexcused absences; and
- (g) If applicable, the student's Individualized Education Program pursuant to IDEA or Section 504 services plan, with any supporting evaluations or assessments.

2104 APPROVAL OF NON-PUBLIC EDUCATIONAL INSTITUTIONS

- 2104.1 This section applies to all private, independent, or parochial educational institutions in the District of Columbia offering elementary/secondary educational services to school-age children.
- 2104.2 A school meeting the requirements of this section shall be deemed to be in compliance with the school year and instructional day requirements of Section 2100.5.
- 2104.3 Beginning with the 2014-15 school year, attendance by school-age child at private, independent, or parochial educational institution operating in the District of Columbia shall be deemed to fulfill the compulsory attendance requirements of D.C. Official Code § 38-202(a) only if the educational institution has been approved by OSSE pursuant to this section.
- 2104.4 An educational institution covered by this section shall be deemed to have an approved elementary/secondary educational program for attendance and compulsory education purposes based upon evidence submitted to OSSE confirming the institution is currently accredited by one of the following accrediting bodies:
- (a) Middle States Association of Colleges and Schools;
 - (b) Association of Independent Maryland Schools;
 - (c) Southern Association of Colleges and Schools;
 - (d) Virginia Association of Independent Schools;
 - (e) American Montessori Society;
 - (f) American Montessori Internationale;
 - (g) National Academy of Early childhood Programs; or
 - (h) Any other accrediting body approved by OSSE.

- 2104.5 An educational institution covered by this section shall submit to OSSE, upon request and in the format designated by OSSE, evidence of the following aspects of its program:
- (a) Governance: names and contact information for governing board members, if any, and principal(s) and executive director(s);
 - (b) Facilities: physical location of all campuses; valid certificate of occupancy; evidence of compliance with fire, lead, and other health and safety codes;
 - (c) Scope: educational mission and goals; identified curricular specialization (for example, performing/visual arts; science, technology, engineering, mathematics (“STEM”)); maximum enrollment; grade levels offered;
 - (d) Instruction Time: school year calendar; standard operating hours; daily, weekly, monthly, and yearly instruction hours; dates of scheduled breaks; summer school and extended learning hours;
 - (e) Curriculum: subjects offered and course codes; instruction methods; assessments used; curricular alignment with OSSE-enacted content standards, Common Core State Standards, or other identified academic standards;
 - (f) Staff: training and educational standards for teachers and supervisory staff; teaching credentials; employment contracts;
 - (g) Policies governing school operations; enrollment; admission; attendance and truancy; student code of conduct, including suspension, expulsion, and other disciplinary actions; health and safety; parent engagement and consultation; discrimination and civil rights; and
 - (h) Supplemental Education Services: continuum of services available to students with disabilities; services available to English language learners.
- 2104.6 OSSE shall review evidence submitted pursuant to § 2104.5 to determine whether the program described is sufficient to be deemed an elementary/secondary educational program. OSSE shall issue a written determination within sixty (60) days of the submission that either certifies that OSSE has approved the educational institution or denies approval, stating with specificity the elements of the educational program that are not acceptable to OSSE.

- 2104.7 An educational institution whose educational program is not approved by OSSE may request a reconsideration of a denial of approval for the following reasons:
- (a) Subsequent to denial of approval by OSSE, the educational institution made modifications to the elements of the educational program that were deemed unacceptable by OSSE and has new evidence for OSSE's consideration that was not previously submitted; or
 - (b) Subsequent to the denial of approval by OSSE, the educational institution obtained accreditation by one of the accrediting bodies listed in § 2104.
- 2104.8 OSSE's approval of an educational institution pursuant to this section shall be contingent upon the maintenance and submission by the educational institution of attendance data and records to OSSE that are required by compulsory education and attendance laws, regulations, and OSSE policies.

2199 DEFINITIONS

“Absence” --A full or partial school day on which the student is not physically in attendance at scheduled periods of actual instruction at the educational institution in which s/he was enrolled or attended, and is not in attendance at a school-approved activity that constitutes part of the approved school program.

“Absenteeism” -- A pattern of not attending school, including the total number of school days within one school year on which a student is marked with an excused or unexcused absence.

“Action plan” --A written document that is designed to meet the individual and specialized needs of the student and contains the relevant details of the student's attendance record, the school-based or third-party-provided interventions toward addressing the underlying causes of truancy as determined by the school-based student support team, and expected attendance goals.

“Attendance monitor” --The person(s) designated by the principal or chief school administrator of an educational institution to be responsible for collecting, maintaining, and reporting attendance records that are required pursuant to District of Columbia compulsory education and school attendance laws, regulations, and OSSE policies for each student enrolled in the educational institution.

“Chronic Absenteeism” -- The accumulation within one school year of ten (10) or more school days on which a student is marked absent, including excused and unexcused absences.

“Chronically Truant” -- A school aged child who is absent from school without a legitimate excuse for ten (10) or more days within a single school year.

“Consultation” --when used in the context of consultation with parents by a school-based student support team - on the part of the educational institution to meet with the student’s parent(s) or guardian(s) and to engage in meaningful discussions about the issues underlying the student’s absenteeism prior to making any decision about action plans, interventions, or services to address the student’s absenteeism.

“Educational institution” --Any person or entity in the District of Columbia that advertises, promotes, contracts, or otherwise holds itself out as providing elementary/secondary educational programs or services to a school-age child(ren), including credit-bearing evening programs and services, but does not include educational services that are provided through home schooling, or outside of the normal school hours and that do not lead to promotion to the next grade.

“Educational neglect” --The failure of a parent or guardian to ensure that a child attends school consistent with the requirements of the law including, without limitation, the failure to enroll a school-age child in an educational institution or provide appropriate private instruction; permitting chronic absenteeism from school; inattention to special education needs; refusal to allow or failure to obtain recommended remedial education services; or the failure to obtain treatment or other special education services without reasonable cause.

“Elementary/secondary educational program” --A course of instruction and study from and including pre-Kindergarten through the end of high school, any portion thereof, or its equivalent.

“Enrollment” --A process through which a student obtains admission to a public or public charter school that includes, at a minimum the following stages:

- (1) Application by student to attend the school;
- (2) Acceptance and notification of an available slot to the student by the school;
- (3) Acceptance of the offered slot by the student (signified by completion of enrollment forms and parent signature on a “letter of enrollment agreement form”);
- (4) Registration of the student in the Student Information System (SIS) by school upon receipt of required enrollment forms and letter of enrollment agreement; and
- (5) Receipt of educational services.

For students with Individualized Education Programs (IEPs), the LEA’s obligation to serve the student is triggered at registration (stage 4) and services must be provided in

accordance with the IEP. For students in general education, the obligation to serve the student is triggered at stage 5.

“IDEA” --The “Individuals with Disabilities Education Act”, approved April 13, 1970 (84 Stat. 191; 20 U.S.C. §1400 *et seq.*), as amended by Pub. L. 108-446, approved December 3, 2004 (118 Stat. 2647).

“Full school day” --The entirety of the instructional hours regularly provided on a single school day.

“Late arrival” --Arrival by a student at the educational institution after the official start of the school day as defined by the educational institution. Late arrival does not include any period of time that would constitute a partial school day as defined by this chapter.

“LEA” --**Local Educational Agency**, pursuant to 20 USCS § 7801(26)(A), a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

“Marking period” --A portion of a school year between two dates, at the conclusion of which period students are graded or marked.

“McKinney-Vento” --The “McKinney-Vento Homeless Assistance Act of 1987”, as amended, Title VII, Subtitle B; 42 U.S.C. 11431-11435.

“Nonpublic” -- An educational institution that is an independent, private or parochial school.

“OSSE” --The Office of the State Superintendent of Education.

“Partial school day” --At least twenty percent (20%) of the instructional hours regularly provided on a single school day; which shall be deemed to be a full school day, when a student is absent during this period of time without an excused absence.

“Present” --A single school day on which the student is physically in attendance at scheduled periods of actual instruction at the educational institution in which s/he was enrolled and registered for at least 80% of the full instructional day, or in attendance at a school-approved activity that constitutes part of the approved school program for that student.

“School-age child” --A school-age child is a child who is five (5) years of age on or before September 30 of the current school year until the child reaches the age of eighteen (18) years.

“Section 504” --Section 504 of the “Rehabilitation Act of 1973”, approved September 26, 1973 (87 Stat 394; 29 U.S.C. § 794).

“STEM” --Educational instruction in science, technology, engineering, and mathematics.

“Truant” --A school-age child who is absent from school without a legitimate excuse for absence.

“Truancy rate” --The incidence of students who are absent without valid excuse as defined by 5 DCMR A2102 on ten (10) or more occasions within a single school year divided by the total number of students enrolled for a single school year as determined by the final enrollment audit conducted by OSSE pursuant to D.C. Official Code § 38-203. Truancy rate may be calculated and reported at the school, LEA, and state levels.

Title 5 DCMR subtitle E, chapter 21, is amended by deleting the following subsection: 2100.3

Persons wishing to comment on this rule should submit their comments in writing to Office of the State Superintendent of Education, 810 First Street, NE, 9th Floor, Washington, D.C. 20002, Attention: Jamai Deuberry [phone number (202) 724-7756], Office of General Counsel, or to OSSEcomments.proposedregulations@dc.gov. All comments must be received no later than thirty (30) days after publication of this notice in the *D.C. Register*.

Copies of this rulemaking may also be obtained from the OSSE website at www.osse.dc.gov or upon request at the above referenced location.

DISTRICT OF COLUMBIA TAXICAB COMMISSION**NOTICE OF PROPOSED RULEMAKING**

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in Sections 8(b)(1)(C), (D), (E), (F), (G), (I), (J), 14 and 20 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1)(C), (D), (E), (F), (G), (I), (J) and 50-319 (2009 Repl.), and D.C. Official Code § 50-313 (2009 Repl.; 2012 Supp.); D.C. Official Code § 47-2829(b), (d), (e), (e-1), and (i) (2012 Supp.); Section 12 of the 1919 District of Columbia Taxicab Act, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); and Section 6052 of the District of Columbia Taxicab Commission Fund Amendment Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 50-320(a)) (2012 Supp.), hereby gives notice of proposed rulemaking to amend Chapter 12 (Licensing of Limousine Operators, Vehicles and Organizations), of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR). The rulemaking amends Chapter 12 to integrate requirements for sedan vehicles and operators.

Directions for submitting comments may be found at the end of this Notice. The Commission also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*.

Chapter 12 of Title 31, LIMOUSINE OPERATORS AND VEHICLES, of the DCMR is amended as follows:

The title of Chapter 12 is amended to read as follows:

CHAPTER 12 SEDAN AND LIMOUSINE OPERATORS, VEHICLES, AND ORGANIZATIONS

Section 1200, APPLICATION AND SCOPE, is amended to read as follows:

- 1200.3 In the event of a conflict between a provision of this chapter, and any other provision of this title or law applicable to public vehicles-for-hire, including any penalty provision, the more restrictive provision shall control.
- 1200.4 This chapter establishes licensing and operating requirements for limousine and sedan operators, vehicles, and organizations under this title. Operating requirements applicable only to sedans are contained in Chapter 14 (Operation of Sedans) of this title.

Section 1201, GENERAL REQUIREMENTS, is amended to read as follows:

- 1201.1 No person may operate a vehicle as a limousine or as a sedan except as provided in this chapter.

- 1201.2 No vehicle may be operated as a limousine except as provided in this chapter. No vehicle may be operated as a sedan except as provided in this chapter and in Chapter 14 of this title.
- 1201.3 The Office may from time-to-time issue an order approving one or more vehicles presumed to meet the definition of “limousine” or “sedan” which shall be posted on the Commission’s website.
- 1201.4 A person may operate limousines, sedans, or both, provided such person:
- (a) Has a valid and current driver’s license issued by the Department of Motor Vehicles (“DMV”);
 - (b) Has a valid and current operator’s license issued by the Office of Taxicabs (“Office”) pursuant to § 1209, providing authority to operate the class(es) of public vehicle-for-hire such person chooses to operate; and
 - (c) Is in compliance with the insurance requirements of Chapter 9 (Insurance Requirements) of this title.
- 1201.5 A vehicle may be operated as a limousine, a sedan, or both, only at such times when:
- (a) It is currently registered and inspected by, and displays valid and current livery tags (L tags) issued by, DMV;
 - (b) It has been licensed by the Office pursuant to § 1204 to be operated in such class of public vehicle-for-hire;
 - (c) It is operated in compliance with § 1201.6;
 - (d) It is in compliance with Chapter 9 (Insurance Requirements) of this title; and
 - (e) If it is owned by a sedan or limousine organization and such sedan or limousine organization is in compliance with the applicable provisions of this chapter.
- 1201.6 Operating requirements for limousines and sedans. No vehicle shall be operated as a limousine or as a sedan unless all of the following requirements are met:
- (a) The operator is in compliance with § 1201.4;
 - (b) The vehicle is in compliance with § 1201.5;
 - (c) The operator maintains at the Office correct and current contact

information, including his or her full legal name, residence address, residence telephone number, cellular telephone number, and, if associated with a sedan or limousine organization, contact information for such organization or the owner for which he or she drives, and informs the Office of any change in the foregoing information within five (5) business days by certified mail with return receipt requested or by hand delivery, in which case the Office will provide proof of filing;

- (d) The operator maintains in the vehicle a current manifest of all trips made by the vehicle, which shall be compiled by the operator on a daily basis, in any reasonable, legible, and reliable written or electronic format, created contemporaneously from information at the time of each trip (such as an itinerary, trip ticket, work order, log sheet or electronic device), shall include the date, the time of pick up, the address or location of the pickup, the final destination, and the time of discharge, and shall not include terms such as “as directed” in lieu of any information required by this paragraph;
- (e) Each limousine trip shall be booked through a reasonable form of advance reservation and the fare shall be calculated based on time;
- (f) Each sedan trip shall be conducted in accordance with the operating requirements of Chapter 14 (Operation of Sedans) of this title; and
- (g) No trip by limousine or sedan may be booked in response to a street hail or through the solicitation of a street hail by any person or entity.

1201.7 Notwithstanding any other provision of this section, a vehicle for which valid and current livery tags have been issued by both DMV and the motor vehicle licensing agency of another jurisdiction, may operate in the District while displaying the livery tags of such other jurisdiction provided the livery tags issued by DMV are maintained in the vehicle at all times available for inspection upon demand by a public vehicle enforcement inspector or other law enforcement officer, or another authorized official of the Office, and such vehicle is otherwise in full compliance with this chapter.

Section 1201.7 is DELETED.

The title of Section 1202 is amended to read as follows:

REQUIREMENTS FOR LICENSING OF SEDAN ORGANIZATIONS, LIMOUSINE ORGANIZATIONS, AND INDEPENDENT OWNERS

Section 1202, REQUIREMENTS FOR LICENSING LIMOUSINE ORGANIZATIONS, SEDAN ORGANIZATIONS AND INDEPENDENT OWNERS, is amended to read as follows:

1202.1 No limousine organization, sedan organization, or independently operated limousine or sedan shall operate in the District without first paying the applicable fees of four-hundred seventy-five dollars (\$475.00), comprising an annual operating authority of three-hundred seventy-five dollars (\$375.00) and a business license fee of one-hundred dollars (\$100.00), for a limousine or sedan organization, or two-hundred fifty dollars (\$250.00), comprising an annual operating authority of one-hundred fifty dollars (\$150.00) and a business license fee of one-hundred dollars (\$100.00), for an independently operated limousine or sedan, and obtaining a certificate of authority to operate.

1202.2 Each limousine or sedan organization shall file with Office, in addition to other information and data required by law, the following:

Paragraph 1202.2 (d) is amended to read as follows:

- (d) The name and residence address of the lessee and owner of each limousine or sedan operated by the organization;

Paragraph 1202.2 (f) is amended to read as follows:

- (f) The ownership, seating capacity, make, year, weight, and vehicle identification number of all vehicles;

Paragraphs 1202.2 (l) and 1202.2 (m) are amended to read as follows:

- (l) A description of service(s) to be rendered, including, time(s) of operation; and
- (m) A schedule of fares and charges as they occur.

Subsection 1202.4 is amended to read as follows:

1202.4 Each base owner and limousine or sedan organization shall comply with all record keeping procedures established by the Commission. The operational information required to be maintained by § 1202.2 shall be safeguarded and maintained at the office of the organization for a period of five (5) years.

Subsection 1202.9 is amended to read as follows:

1202.9 Any limousine or sedan organization that fails to timely file information as required in § 1202.2 shall be subject to a civil fine of two-hundred fifty dollars (\$250.00).

Subsection 1202.10 is added as follows:

1202.10 Each limousine or sedan organization shall post its current rates and charges on its website, if any, and shall maintain its current rates and charges with the Office. No limousine or sedan organization shall collect a fare based on a rate or charge that is not posted and maintained as provided in this subsection at the time of the booking.

Section 1203, REQUIREMENT OF BASE OWNER, is amended to read as follows:

1203.1 Each limousine or sedan base owner may maintain an office in the District with an operable telephone number listed in the name of the organization.

The title of Section 1204 is amended to read as follows:

REQUIREMENTS FOR LICENSING OF LIMOUSINE AND SEDAN VEHICLES

Subsections 1204.1, 1204.2, 1204.4, and 1204.6 through 1204.8 of Section 1204, REQUIREMENTS FOR LICENSING OF LIMOUSINE AND SEDAN VEHICLES, are amended to read as follows:

1204.1 An owner or lessee of a vehicle proposed to be operated as a limousine, as a sedan, or as both (“applicant”), in the District of Columbia shall obtain a license for such vehicle from the Office.

1204.2 Each applicant shall file an application for each vehicle license using a form approved by the Office. Each application shall set forth the applicant’s lawful name, the residence and business addresses of the applicant’s residence, business, and mobile telephone numbers, tax identification number, and an indication of whether the applicant proposes to operate the vehicle as a limousine, as a sedan, or as both.

1204.4 Each applicant shall present evidence that the vehicle has been inspected by the Department Motor Vehicles.

1204.6 Upon receipt of an application for a limousine or sedan license and evidence satisfactory that all requirements have been met, including an inspection of the vehicle reflecting that it meets the definition of sedan, limousine, or both, as set forth in § 1299.1, and upon receipt of the proper fee, the Office shall issue a license to the owner.

1204.7 The fee for each license to operate a vehicle as a limousine, as a sedan, or as both, shall be one-hundred dollars (\$100.00) for each vehicle.

1204.8 Each vehicle license shall be in the form prescribed by the Office and shall contain any information the Office considers appropriate.

The title of Section 1205 is amended to read as follows:

ELIGIBILITY REQUIREMENTS FOR LIMOUSINE OR SEDAN OPERATOR'S LICENSE

Subsections 1205.1, 1205.6, 1205.12 and 1205.13 of Section 1205, ELIGIBILITY REQUIREMENTS FOR LIMOUSINE OR SEDAN OPERATOR'S LICENSE, are amended to read as follows:

- 1205.1 Each applicant for a license to operate a limousine or sedan ("applicant") shall be at least eighteen (18) years of age.
- 1205.6 No operator's license shall be issued by the Office to any person who is required by this chapter to take and pass an examination unless that person has successfully passed an examination which shall including testing of the applicant's ability to read, write, and speak the English language.
- 1205.12 Notwithstanding the provisions of § 1205.11, if the parole or the probation arose out of a conviction other than those listed in § 1205.13, the parolee's or probationer's application may be considered for approval if a letter from the appropriate parole or probation officer is submitted with the application stating that there is no objection to the issuance of a limousine or sedan operator's license.
- 1205.13 An applicant shall not be considered of good moral character if the applicant has been convicted of or has served any part of a sentence for the following crimes within the three (3) years immediately preceding the filing of the application, or an attempt to commit any of the following crimes:
- (a) Murder, manslaughter, mayhem, malicious disfiguring of another, arson, kidnapping, burglary, housebreaking, robbery, theft, fraud, or unlawful possession of a firearm;
 - (b) Assault with the intent to commit any offense punishable by imprisonment in the penitentiary;
 - (c) A sexual offense proscribed by [D.C. Official Code §§ 22-1901](#) (incest), §§ 22-3101 to 3103 (serial performances using minors), § 22-2701 to § 2722 (prostitution and pandering), § 22-4801 (rape), § 22-3801 (indecent acts with children) or, an act committed outside the District which, if committed in the District, would constitute an offense under such laws;
 - (d) A violation of the District of Columbia Uniformed Controlled Substances Act of 1981 or the Drug Paraphernalia Act of 1982, [D.C. Official Code §§ 48-901.01, et seq.](#) and [§§ 48-1101 et seq.](#) or, an act committed outside the District which, if committed in the District, would constitute an offense under these laws; or

- (e) A criminal offense committed against a passenger.

The title of Section 1206 is amended to read as follows:

APPLICATION PROCESS FOR LICENSE TO OPERATE A LIMOUSINE OR SEDAN

Subsections 1206.1, 1206.3, and 1206.7 of Section 1206, APPLICATION PROCESS FOR LICENSE TO OPERATE A LIMOUSINE OR SEDAN, are amended to read as follows:

- 1206.1 Each application for an operator’s license shall be made on a form provided by the Office and shall indicate the applicant’s choice of whether such applicant proposes to be licensed to operate vehicles limousines, sedans, or both.
- 1206.3 Each application shall be accompanied by two (2) new full face and one (1) profile head and shoulders color photographs, one and three-quarter inches by one and seven-eighths inches (1 ³/₄ in. x 1 in.) in size.
- 1206.7 If the applicant is a member of the Armed Forces at the time the application is filed, the application shall be accompanied by written permission of the appropriate commanding officer permitting the applicant to receive an operator's license.

Section 1207, HEALTH REQUIREMENTS, is amended to read as follows:

- 1207.1 Each application for a new or renewal operator's license shall be accompanied by a certificate from a licensed physician who resides in the metropolitan area.
- 1207.2 The certificate shall be on a form provided by the Office executed under penalty of perjury.
- 1207.3 The certificate shall be executed no earlier than thirty (30) days before the date on which the application is filed.
- 1207.4 The certificate shall not be considered sufficient to support an application unless it contains all of the following:
 - (a) A statement that the applicant is not afflicted with any disease or infirmity, such as a contagious disease, epilepsy, vertigo, fainting spells, blackouts, attacks of dizziness, or another medical condition that, in the discretion of the Office, may render the applicant unsafe or unsatisfactory as a vehicle operator;
 - (b) A statement that the applicant has central visual acuity of at least 20/40 in one eye, either unassisted or assisted by glasses or contact lens, and hearing of at least 10/20 in one ear; and

- (c) Such additional information or documentation relating to the applicant’s past or present medical history as the Office deems appropriate.

Sections 1207.5 and 1207.6 are DELETED.

The title of Section 1208 is amended to read as follows

INVESTIGATION, EXAMINATION, AND EDUCATION OF APPLICANTS

Section 1208, INVESTIGATION, EXAMINATION, AND EDUCATION OF APPLICANTS, is amended to read as follows:

- 1208.1 Upon receipt of an application for a limousine or sedan operator’s license, the Office shall investigate each applicant to verify the identity and determine the competency, fitness, and eligibility of the applicant for a license.
- 1208.2 Each applicant shall attend and complete, to the satisfaction of the Office, such training and education as the Office may require as a condition for licensing.

Subsections 1209.2 and 1209.4 of Section 1209, ISSUANCE OF LICENSES TO OPERATE, are amended to read as follows:

- 1209.2 Each license to operate a public vehicle-for-hire shall have marked upon its face a statement indicating that it is valid only for the class(es) of vehicle for which it is issued and that it is nontransferable.
- 1209.4 Each person to whom an operator’s license has been issued shall, during the term of the license, reside within the Metropolitan Area, and shall, no later than five (5) days following the termination of the residence within the Metropolitan Area, surrender the license to the Office.

Section 1210, DENIAL OF LICENSE AND REAPPLICATION, is amended as follows:

- 1210.1 An applicant who has been denied a license to operate a public vehicle-for-hire under this chapter for reasons other than for failure to complete successfully an examination may file a new application for a license after the expiration of not less than six (6) months after the denial, unless the denial is reversed by the Commission.

Subsection 1211.1 of Section 1211, LOSS, THEFT OR DESTRUCTION OF LICENSE, is amended to read as follows:

- 1211.1 In case of the loss, theft, or destruction of any limousine or sedan operator's or vehicle license issued pursuant to the provisions of this chapter, the licensee shall immediately notify the Office of the loss, theft, or destruction.

The title of Section 1212 is amended to read as follows:

ENFORCEMENT OF THIS CHAPTER

Subsection 1212.1 of Section 1212, **ENFORCEMENT OF THIS CHAPTER**, is amended to read as follows:

1212.1 The enforcement of this chapter shall be governed by the procedures set forth in Chapter 7 of this title.

Subsections 1212.2 through 1212.10 are **DELETED**.

Section 1213, **HEARINGS ON COMPLAINTS**, is **DELETED**.

A new Section 1213, titled **WHEELCHAIR ACCESSIBILITY REQUIREMENTS FOR SEDAN ORGANIZATIONS**, is added to read as follows:

1213 WHEELCHAIR ACCESSIBILITY REQUIREMENTS FOR SEDAN ORGANIZATIONS,

1213.1 Each sedan organization with twenty (20) or more vehicles licensed under this chapter to be operated as sedans as of May 1, 2013, or anytime after, shall dedicate a portion of such vehicles as follows:

- (a) At least six (6 %) percent of such vehicles shall be wheelchair-accessible by December 31, 2014.
- (b) At least twelve (12%) percent of such vehicles shall be wheelchair-accessible by December 31, 2016.
- (c) At least twenty (20%) percent of such vehicles shall be wheelchair-accessible by December 31, 2018.

Subsections 1214.1 and 1214.3 of Section 1214, **RENEWAL OF OPERATOR LICENSE**, are amended to read as follows:

1214.1 A licensed operator may seek to renew the license by applying at the Office beginning forty-five (45) days prior to the expiration of the license.

1214.3 If a person fails to submit an application to renew the license to operate for one (1) year following the expiration date of the license, such person shall be required to apply for a new license to operate pursuant to the provisions of this chapter.

Section 1215, **SPECIAL VEHICLE FOR HIRE PERMIT**, is **deleted**.

A new Section 1215, titled INSPECTION OF LIMOUSINES AND SEDANS, is added to read as follows

- 1215.1 All vehicles shall be inspected annually or at other times as required by the Commission for safe operating condition and compliance with District of Columbia motor vehicle regulations with respect to the condition of the body and fenders, cleanliness, repairs, and other mechanical parts relating to both the exterior and interior condition of the vehicle.
- 1215.2 Any public vehicle enforcement inspector, other law enforcement officer, or other authorized official of the District, may inspect and test the lights, brakes, steering assembly, tires, equipment (including the SPS system), horn, or any other device required by Title 18 DCMR and the Commission's rules and regulations at any time a vehicle is on the public streets or public space.
- 1215.3 Any public vehicle enforcement inspector, other law enforcement officer, or other authorized official of the District, may order the removal of an unsafe or improperly equipped vehicle from any public street or space to one of the official District Inspection Stations for re-inspection, notwithstanding the fact that the vehicle displays an approved inspection sticker, for inspection or repairs.
- 1215.4 No person may operate, move, or permit the operation or use of any vehicle that is mechanically unsafe, improperly equipped, or otherwise unfit to be operated. Such vehicles shall be towed from the public streets and impounded pursuant to the Taxicab and Passenger Vehicle for Hire Impoundment Act of 1992, effective March 16, 1993 (D.C. Law 9-199; D.C. Official Code § 50-331(a)(6) (2009 Repl.; 2012 Supp.)).
- 1215.5 The Office may from time-to-time institute vehicle equipment inspection checkpoints to randomly inspect vehicles for the protection of passengers and the general public. Such vehicle equipment inspection check points shall be conducted in accord with this title, Orders of the Office, and other applicable law.

Section 1217, ADVERTISING, is amended to read as follows:

- 1217.1 No advertising or advertising device shall be placed on or in any limousine or sedan without the approval of the Office.

Section 1218, PENALTIES, is amended to read as follows:

- 1218.1 Each violation of this chapter by a sedan or limousine owner or operator shall subject the violator to:
- (a) A civil fine not to exceed two hundred fifty dollars (\$250.00); provided, however, that the applicable fine for a violation of this chapter shall be

doubled for the second offense within any twenty-four (24) month period and tripled for the third and any subsequent offense within such period;

- (b) The suspension, revocation, or non-renewal of the operator's license or the owner's vehicle license, issued by the Office pursuant to this chapter;
- (c) Impoundment of any vehicle found to be operated by such operator, pursuant to D.C. Official Code § 50-331 (2012 Supp.); or
- (d) A combination of the sanctions listed in this subsection.

1218.2 Each violation of this chapter by a sedan or limousine organization shall subject the violator to:

- (a) A civil fine not to exceed five hundred dollars (\$500.00); provided, however, that the applicable fine for a violation of this chapter shall be doubled for the second offense within any twenty-four (24) month period and tripled for the third and any subsequent offense within such period;
- (b) The suspension, revocation, or non-renewal of the organization's license issued by the Office pursuant to this chapter;
- (c) Impoundment of any vehicle found to be operated by such operator, pursuant to D.C. Official Code § 50-331 (2012 Supp.); or
- (d) A combination of the sanctions listed in this subsection.

1218.3 The Office may recommend to any other government agency the suspension or revocation of any license or privilege to do business in the District of Columbia for failure to comply with this chapter, including any penalty imposed by the Office.

Section 1219, APPEALS, is DELETED.

A new Section 1219, RECIPROCITY WITH SURROUNDING JURISDICTIONS, is added to read as follows:

1219.1 The reciprocity provisions of § 828 of this title shall apply to any vehicle operating as a sedan or limousine in the District of Columbia.

Section 1299, DEFINITIONS, is amended to read as follows:

1299.1 When used in this chapter, the following words and phrases shall have the meaning ascribed.

Associated - connotes a voluntary relationship of employment, contract, ownership, or other legal affiliation. For purposes of this chapter, an association not in writing shall be ineffective for compliance purposes.

Identification card - the operator license issued under § 31(i) of the License Act ([D.C. Official Code § 47-2829\(i\)](#) (2012 Supp.)).

Independently Operated Limousine or Sedan - a sedan or limousine that is not affiliated with an organization.

Limousine - a vehicle that meets the following requirements:

- (a) It is designated as a Large Car, Passenger Van, or Sport Utility Vehicle (“SUV”) by the Environmental Protection Agency (“EPA”), and may be stretched;
- (b) It is equipped with at least three (3) passenger doors;
- (c) It is designed to carry fewer than nine (9) passengers (excluding the operator);
- (d) It is equipped with substantial luxury features, including premium sound system, reading lights, aluminum wheels, and noise-dampening materials or systems; and
- (e) If it has shading of the rear or rear passenger windows, such shading does not reduce light transmission by more than fifty (50) percent through such windows.

Sedan organization - an individual, person, corporation, company, partnership, or association, owning or operating two or more sedans in the District of Columbia.

Operator - a person who operates a limousine or sedan.

Owner - a person, corporation, partnership, or association that holds the legal title to a limousine or sedan, the registration of which is required in the District of Columbia. If a limousine or sedan is the subject of an agreement for the conditional sale or lease with the right of purchase upon performance of the condition stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a limousine or sedan is entitled to possession, then the conditional vendee, lessee, or mortgagor shall be considered the owner.

Sedan – a vehicle that meets the following requirements:

- (a) It is designated as an EPA Large Car or SUV and is not stretched;

- (b) It is equipped with a six (6) or greater cylinder gasoline engine (not hybrid, electric, or diesel), has a curb weight of at least 4,000 lb., is equipped at least three (3) passenger doors, and, if it is an SUV, it has all-wheel drive or four-wheel drive;
- (c) It is designed to carry at least four (4) and fewer than nine (9) passengers (excluding the operator);
- (d) It is equipped with substantial luxury features, including premium sound system, reading lights, aluminum wheels, and noise-dampening materials;
- (e) If it has shading of the rear or rear passenger windows, such shading does not reduce light transmission by more than fifty (50%) percent through such windows;
- (f) It is not a salvaged vehicle or a vehicle rented from an entity whose predominant business is that of renting motor vehicles on a time basis;
- (g) It was manufactured during the five (5) model year period ending in the calendar year during which the vehicle licensing or re-licensing is sought; and
- (h) It is black in color.

The following definitions are DELETED:

Panel on Adjudication - the Panel on Adjudication established pursuant to the District of Columbia Taxicab Commission Establishment Act of 1985, as amended (D.C. Law 6-97; D.C. Official Code § 50-301 et seq. (2001)).

Panel on Rates and Rules - the Panel on Rates and Rules established pursuant to the District of Columbia Taxicab Commission Establishment Act of 1985, as amended (D.C. Law 6-97; D.C. Code § 50-301 et seq. (2001)).

Copies of the proposed rulemaking can be obtained at www.dcregs.dc.gov or by contacting Jacques P. Lerner, General Counsel, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. All persons desiring to file comments on the proposed rulemaking action should submit written comments via e-mail to dctc@dc.gov or by mail to the DC Taxicab Commission, 2041 Martin Luther King, Jr., Ave., S.E., Suite 204, Washington, DC 20020, Attn: Jacques P. Lerner, General Counsel, no later than thirty (30) days after the publication of this notice in the *D.C. Register*.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in Sections 8(b)(1)(C), (D), (E), (F), (G), (I), (J), 14 and 20 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1)(C), (D), (E), (F), (G), (I), (J) and 50-319 (2009 Repl.), and D.C. Official Code § 50-313 (2009 Repl.; 2012 Supp.); D.C. Official Code § 47-2829(b), (d), (e), (e-1), and (i) (2012 Supp.)); Section 12 of the 1919 District of Columbia Taxicab Act, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); and Section 6052 of the District of Columbia Taxicab Commission Fund Amendment Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 50-320(a)) (2012 Supp.), hereby gives notice of its intent to adopt rules to establish a new Chapter 14 (Operation of Sedans) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR). The rulemaking establishes substantive rules governing the provision of sedan service in the District of Columbia. Directions for submitting comments may be found at the end of this Notice.

The Commission also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*.

The Commission intends to add Chapter 14, OPERATION OF SEDANS, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR to read as follows:

CHAPTER 14 OPERATION OF SEDANS

1400 APPLICATION AND SCOPE

- 1400.1 The purpose of this chapter is to establish substantive rules governing the operation of public vehicle-for-hire operators and vehicles licensed pursuant to Chapter 12 (Sedan and Limousine Operators, Vehicles, and Organizations) of this title to provide sedan service in the District of Columbia, including rules to ensure the safety of passengers and operators, to protect consumers, and to collect a passenger surcharge.
- 1400.2 The provisions of this chapter shall be interpreted to comply with the language and intent of the District of Columbia Taxicab Commission Establishment Act of 1985, D.C. Official Code §§ 50-301 *et seq.*
- 1400.3 In the event of a conflict between a provision of this chapter and a provision of another chapter of this title, the more restrictive provision shall control.

1401 GENERAL PROVISIONS

- 1401.1 Effective May 1, 2013, each trip by a public vehicle-for-hire operating as a sedan in the District of Columbia shall meet the following requirements:
- (a) The operator shall use a sedan payment system (“SPS”) approved by the Office of Taxicabs (“Office”);
 - (b) The trip shall be booked through the digital dispatch service (“DDS”) that has been approved by the Office to provide the service and support for the SPS;
 - (c) The trip shall be paid for by a digital payment processed by the SPS;
 - (d) The rates and charges shall comply with § 1401.5; and
 - (e) The sedan passenger surcharge shall be collected.
- 1401.2 Each operator, vehicle, and organization providing sedan service shall at all times be in compliance with the provisions of both this chapter and Chapter 12 (Sedan and Limousine Operators, Vehicles, and Organizations) of this title. The sedan operating requirements set forth in this chapter shall be in addition to the sedan operating requirements set forth in Chapter 12.
- 1401.3 Each operator shall be in compliance with all applicable provisions of this title, and all other laws applicable to public vehicles-for-hire, including all reciprocal agreements between governmental bodies in the Washington Metropolitan Area governing public vehicle-for-hire service such as those in § 828 of this title.
- 1401.4 Each DDS providing service and support for an Office-approved SPS shall at all times be in compliance with the provisions of both this chapter and Chapter 16 (Dispatch Services) of this title.
- 1401.5 Passenger rates and charges. The rates and charges for each sedan trip shall comply with the following requirements:
- (a) They shall be calculated based on time and distance, except for a fare approved by the Office in an administrative order for a trip to an airport or for another point-to-point trip based on a well-traveled route or an event-related trip;
 - (b) They shall be reflected in an estimated fare provided to the passenger prior to the acceptance of service;
 - (c) If the DDS uses surge or demand pricing and it applies to such trip, the effect of such pricing shall be revealed in the estimated fare;

- (d) They shall be consistent with the DDS statement of its fare calculation method posted on its website pursuant to § 1601.7;
- (e) They shall not exceed the estimated fare by more than twenty (20) percent or twenty-five dollars (\$25.00), whichever is less; and
- (f) They may include a gratuity provided that the passenger is permitted to pay no gratuity and the amount of the gratuity is determined by the passenger.

1401.6 All costs connected with an SPS or proposed SPS, including development, obtaining approval by the Office, installation, operation, repair, lease, service and support, maintenance, and upgrade shall be the responsibility of the owner or operator of the vehicle, the DDS, or any other person, as may be allocated by a written agreement.

1402 PASSENGER SURCHARGE ACCOUNTS

1402.1 Collection of the sedan passenger surcharge required by this chapter shall require each owner of a sedan vehicle to maintain a passenger surcharge account at the Office, unless such owner associates with a DDS that maintains a surcharge account on behalf of the sedan owners that use its Office-approved SPS, as provided in this section.

1402.2 Requirements for sedan owner surcharge account. Unless a sedan owner associates with a DDS that maintains a DDS surcharge account under § 1402.2, each owner of one or more sedan vehicles shall maintain a surcharge account at the Office meeting the following requirements for each vehicle:

- (a) The account shall be opened by making an initial payment to the Office of one-thousand dollars (\$1,000) per sedan vehicle no later than fourteen (14) days after the owner associates with an Office-approved SPS;
- (b) The owner shall maintain with the Office current and valid account information for a payment card, or a checking or savings account of a federally-insured financial institution, to which the Office may post charges necessary to maintain the surcharge account at the levels required by this section;
- (c) The Office shall keep each surcharge account in a federally-insured financial institution that does business in the District, in a bank account that bears interest;
- (d) The owner shall ensure that the surcharge account at all times has a minimum balance of seven-hundred fifty dollars (\$750) per vehicle;

- (e) The Office shall withdraw from the account on a monthly basis an amount equal to the number of sedan trips reported by the SPS as made by each vehicle in the prior month times the amount of the sedan passenger surcharge.
- (f) The Office may, at any time, deduct from the surcharge account any additional amount necessary to bring the surcharge account into compliance with this section based on the trip data from the SPS, and the owner may, within fifteen (15) days thereafter, request a reconsideration of such action, which shall be ruled upon by the Office within thirty (30) days;
- (g) The owner may, at any time, using a form provided by the Office, request a reconciliation of its account, if it believes the account contains more than one-hundred fifty (150) percent of the minimum balance he or she is required to maintain, which shall be ruled upon by the Office within thirty (30) days; and
- (i) The balance of a surcharge account shall be refunded to the vehicle owner within thirty (30) days after a vehicle is no longer licensed by the Office for use as a sedan, if the surcharge account does not extend to any other vehicles. The account shall be closed after the remaining balance is refunded. If the account extends to other vehicles owned by the same owner, the Office shall refund any amount in the surcharge account that exceeds one-thousand dollars (\$1,000) multiplied by the number of vehicles covered by the surcharge account.

1402.3 Requirements for DDS surcharge account. A DDS that applies and is approved pursuant to § 1403 to maintain a surcharge account on behalf of the sedan owners that use its Office-approved SPS shall maintain a DDS surcharge account at the Office meeting the following requirements for all of the vehicle(s) owned by such owners:

- (a) The account shall be opened at the Office with an initial deposit of ten thousand dollars (\$10,000), plus one-thousand dollars (\$1,000) per vehicle for each vehicle on the vehicle inventory no later than fourteen (14) days after the Office approves the SPS;
- (b) The DDS shall maintain with the Office current and valid account information for a payment card, or a checking or savings account of a federally-insured financial institution, to which the Office may post charges necessary to maintain the surcharge account at the levels required by this section;

- (c) The Office shall keep each DDS surcharge account in a federally-insured financial institution that does business in the District in a bank account containing only surcharge accounts and bearing interest;
- (d) The DDS shall ensure that its account maintains a minimum balance of ten-thousand dollars (\$10,000.00), plus seven-hundred fifty dollars (\$750) for each vehicle on the vehicle inventory;
- (e) The Office shall withdraw from the account on a monthly basis an amount equal to the number of sedan trips reported by the SPS as made by each vehicle on the DDS' inventory in the prior month times the amount of the sedan passenger surcharge.
- (f) The Office may, at any time, deduct from the surcharge account any additional amount necessary to bring the surcharge account into compliance with this section based on the trip data from the SPS, and the DDS may, within fifteen (15) days thereafter, request a reconsideration of such action, which shall be ruled upon by the Office within thirty (30) days;
- (g) The DDS may, at any time, using a form provided by the Office, request a reconciliation of its account, if it believes the account contains more than one-hundred fifty (150) percent of the minimum balance it is required to maintain, which shall be ruled upon by the Office within thirty (30) days; and
- (8) The balance of a surcharge account corresponding to a specific vehicle shall be refunded to the DDS within thirty (30) days following an event that results in such vehicle no longer being licensed by the Office for use as a sedan. If the surcharge account does not extend to any other vehicles, the surcharge account shall also be closed at such time. The balance of a surcharge account shall be refunded to the DDS and the account closed within thirty (30) days following an event that results in the SPS no longer being authorized for use by the Office.

1403 REQUIREMENTS FOR SEDAN PAYMENT SYSTEMS

- 1403.1 An SPS may be operated only by a DDS with a valid certificate of registration issued by the Office of Taxicabs pursuant to Chapter 16 of this title.
- 1403.2 SPS equipment requirements. An SPS shall incorporate any reasonable combination of fixed or mobile hardware technology components, such as a Bluetooth-enabled smartphone, mobile data terminal, or tablet, with an attached or integrated credit card reader, and printer, and shall:
 - (a) Allow the DDS to validate the operator as required by § 1402.3(b)(1);

- (b) Collect and allow the DDS to report the electronic trip data required by § 1402.3(b)(2);
- (c) Allow the DDS to report and process the information required by § 1402.3(b)(3) to enable the Office to receive the sedan passenger surcharge for each trip;
- (d) Allow the sedan operator to accept each digital dispatch;
- (e) Allow the DDS to process each digital payment;
- (f) Provide a printed receipt, or, if the passenger chooses, allow the operator to trigger the sending of an electronic receipt no later than when the passenger exits the vehicle, which shall contain at least: the date and time of the trip; the mileage of trip; the name of the DDS; the vehicle's public vehicle identification number PVIN; the operator's name; the origination and destination of the trip; and a breakdown of the total fare paid, including all fees and charges and any gratuity; and
- (g) Not allow the operator to store or access the passenger's payment information.

1403.3 SPS service and support requirements. Each SPS shall operate in combination with a single DDS that shall:

- (a) Maintain with the Office an inventory of vehicles and operators that meets the following requirements:
 - (1) The initial inventory shall be filed with the application for SPS approval under § 1403;
 - (2) At all times while the SPS is used by any sedan operator, the DDS shall maintain the inventory to insure that it is current and accurate through such means and at such times as required by the Office;
 - (3) For each vehicle associated with the SPS, the inventory shall contain:
 - (A) The name and address of the vehicle's owner(s), including the owner's work and cellular telephone numbers;
 - (B) The vehicle's vehicle identification number (VIN), make, model, and year of manufacture;

- (C) A certification that the vehicle is in compliance with Chapter 9 (Insurance Requirements) of this title;
 - (D) An indication of whether the vehicle is wheelchair accessible;
 - (E) An indication of whether the vehicle is in active use; and
 - (F) If the vehicle is associated with a sedan organization, the name, address, and telephone numbers of such organization;
- (4) For each operator associated with the SPS, the inventory shall contain:
- (A) The name and address of the operator, including the operator's work and cellular telephone numbers;
 - (B) The number of the operator's license issued by the Office;
 - (C) An indication of whether the operator is actively using the SPS; and
 - (D) If the operator is associated with a sedan organization, the name, address, and telephone numbers of such organization; and
- (5) The Office may remove a vehicle or operator from an inventory at any time with reasonable notice to the DDS if such vehicle or operator is not legally authorized or permitted to operate; and
- (b) Maintain a data connection to the SPS equipment used in each vehicle that shall do all of the following:
- (1) Validate the status of the operator license issued by the Office in real-time by connecting to the Office's Back Office Management Information System ("BOMIS") and verifying that the license is not revoked or suspended and that the operator is in compliance with Chapter 9 (Insurance Requirements) of this title;
 - (2) Transmit to the BOMIS every twenty-four (24) hours via a single electronic data feed, in a data structure consistent across all DDSs as established by the Office, the following information:
 - (A) The date;

- (B) The operator license number and the PVIN for the vehicle, reported in a uniform, anonymous format established by the Office;
 - (C) The name of the sedan organization with which the vehicle or operator is associated, if applicable;
 - (D) The time at the beginning of the tour of duty;
 - (E) The time and mileage of each trip;
 - (F) The geospatially-recorded place of origin and destination of each trip, generalized to census tract level;
 - (G) The number of passengers transported during the trip;
 - (I) A unique trip number assigned by the DDS and reported in a format established by the Office; and
 - (J) The total fare paid, including all fares and charges, and any gratuity; and
 - (H) The time at the end of the tour of duty;
- (3) Process and report to the BOMIS the information needed for the Office to receive the passenger surcharge for each sedan trip, by debiting either the sedan owner’s surcharge account or the DDS surcharge account, as provided by § 1402.

1404 REVIEW PROCESS FOR PROPOSED SEDAN PAYMENT SYSTEMS

- 1404.1 No person shall operate an SPS in the District of Columbia unless such SPS has first been approved by the Office under this section.
- 1404.2 Only a DDS with a valid certificate of registration or applying concurrently for a certificate of registration pursuant to Chapter 16 (Dispatch Services) of this title may be approved to operate an SPS.
- 1404.3 Application requirements for a proposed SPS. In order to apply for approval by the Office of a proposed SPS, a DDS shall file an application under penalty of perjury, accompanied by a fee of one-thousand dollars (\$1,000), and including the following information:
- (a) The name and contact information of the applicant;

- (b) Information and documentation demonstrating that the SPS meets the equipment requirements in § 1403.2;
- (c) Information and documentation demonstrating that the SPS meets the service and support requirements in § 1403.3, including the initial vehicle inventory;
- (d) Information and documentation about the forms of digital dispatch and digital payment that the SPS would offer to passengers;
- (e) An indication of whether the DDS proposes to maintain a DDS surcharge account on behalf of its associated vehicle owners pursuant to § 1402.3 (c), and, if so, a bank certification reflecting its ability to comply with the initial deposit requirement of § 1402.3(a);
- (g) A sample of the operating agreement the DDS uses to associate with sedan owners and operators to provide SPS service; and
- (h) Such other information and documentation as the Office may require at the time of application or during the review process to determine that the SPS will meet all the requirements of § 1403 and this section, and that the sedan passenger surcharge will be received by the Office for each sedan trip using the proposed SPS.

1404.4 Throughout the review process, the DDS shall bear the burden of establishing to the satisfaction of the Office that the proposed SPS will meet all the requirements of § 1403 and this section, and that the sedan passenger surcharge will be received by the Office for each sedan trip using the proposed SPS.

1404.5 The Office shall complete its review and issue its decision approving or rejecting each SPS, including its decision whether the DDS is approved to maintain a surcharge account on behalf of its associated owners pursuant to § 1402.3, within fourteen (14) days, provided however, that the fourteen (14) day period may be extended by the Office for no more than ten (10) additional days at the discretion of the Office, and, if the Office has applications for more than five (5) SPS systems (without regard to the number of applications) pending at any time for review and approval, the Office may hold in abeyance its review of any applications over this number.

1404.6 The applicant shall cooperate with Office staff throughout the review process, including at the demonstration described in § 1403.7. An application may be rejected by the Office if the applicant does not cooperate in a timely and reasonable manner during the review process. The Office may deny an application that contains materially false information or as to which materially false information is provided orally or in writing in order to induce approval.

- 1404.7 The Office may arrange one (1) demonstration of the SPS equipment, where the Office technical staff shall have the opportunity to examine and test the equipment and ask questions of the DDS's technical staff, who shall attend the demonstration. An applicant shall be given the opportunity for one (1) additional demonstration upon a showing of good cause, or if required by the Office.
- 1404.8 An approval of an SPS shall continue in effect for twelve (12) months, during which time no substantial change may be made to the SPS without written approval from the Office. A DDS shall promptly inform the Office of a proposed substantial change that would require written approval.
- 1404.9 Each approved SPS shall be listed on the Commission's website promptly following approval and shall remain listed until such approval is no longer effective.
- 1404.10 Each approved SPS shall be submitted by the DDS for renewal at least sixty (60) days prior to the expiration of the then-existing approval, unless the Office provides otherwise in writing. Renewal shall require compliance with the procedures in this section for an approval of a new SPS, except to the extent the Office does not so require. An approval shall continue in effect beyond its expiration date during such time as an application for re-approval is pending in proper form.
- 1404.11 Approval of an SPS may be suspended or revoked at any time by the Office with reasonable notice to the DDS if the Office determines that the SPS no longer meets the requirements of this chapter or that the owners or operators associated with it are not in substantial compliance with this title or other applicable law. Approval of an SPS may be suspended immediately by the Chairman of the Commission without prior notice to the DDS, but with prompt notice and opportunity to be heard, thereafter, if the Office determines that the SPS or the owners or operators associated with it are in such non-compliance with this title or other applicable law so as to pose a significant threat to public safety, operator safety, or consumer protection.
- 1404.12 If the Office denies an application for approval of a proposed SPS, it shall transmit a written notice of denial to the applicant. The notice shall state the reasons for the Office's decision in writing.
- 1404.13 A denial may be appealed to the Chairman of the Commission within fifteen (15) business days after the notice of denial is provided by the Office. If the notice is not appealed within the fifteen (15) day period, the Office's denial shall constitute a final decision of the Office. If the notice is appealed within the fifteen (15) day period, the Chairman shall issue a decision on the appeal within thirty (30) days. A timely appeal of a denial of a renewal application shall extend an SPS's existing approval pending the Chairman's decision on the appeal. A decision of the Chairman to affirm or reverse a denial shall constitute a final decision of the

Office. A decision of the Chairman to remand a denial of a renewal application pending further review shall extend an SPS's existing approval pending the final decision of the Office.

1405 PROHIBITIONS

- 1405.1 No person may provide or attempt to provide sedan service in the District of Columbia other than in compliance with the provisions of this chapter, and all applicable provisions of Chapters 12 and 16 of this title.
- 1405.2 No person may process or collect a fare or charge in connection with sedan service that does not comply with the rates and charges set forth in § 1601.6(b).
- 1405.3 A vehicle owner or operator shall not be entitled to payment for a sedan trip if the vehicle or the operator was not on the DDS vehicle inventory required by § 1403.3(a) when the digital dispatch was initiated by the passenger.
- 1405.4 No sedan operator may pick up or transport a passenger if the SPS printer component is not functioning as required, regardless of whether an electronic receipt is available, as required by §1403.2(f).
- 1405.5 No owner or operator may alter or tamper with a component of the SPS or make any change in the vehicle that prevents the SPS from operating in conformity with the SPS approval granted by the Office.
- 1405.6 No operator may operate a vehicle as a sedan with an SPS that has been tampered with, broken, or altered. The operation of a sedan with a tampered, broken, or altered SPS shall give rise to a rebuttable presumption that the operator knew of the tampering, breaking, or alteration.
- 1405.7 No operator may provide sedan service other than through a digital dispatch processed by an Office-approved SPS.
- 1405.8 No operator may be paid for sedan service other than through a digital payment processed by an Office-approved SPS.
- 1405.9 A sedan operator shall pick up a passenger at the time and location provided in the digital dispatch.

1406 PENALTIES

- 1406.1 Each violation of this chapter by a sedan or limousine organization, independent vehicle owner, or vehicle operator, shall subject the violator to:

- (a) A civil fine of two-hundred fifty (\$250) dollars, which shall double for the second violation of the same provision, and triple for each violation of the same provision thereafter;
- (b) Suspension, revocation, or non-renewal of the operator’s license issued pursuant to Chapter 12 of this title;
- (c) Impoundment of each vehicle found to be operating in violation of this chapter, including operating as a sedan without an office-approved SPS or with an SPS the approval of which has been suspended, revoked, or not renewed;
- (d) Confiscation of any SPS equipment used in violation of this chapter; or
- (e) A combination of the sanctions enumerated in this subsection.

1406.2 Each violation of this chapter by a DDS or its authorized representative shall subject the DDS to:

- (a) A civil fine of five hundred (\$500) dollars, which shall double for the second violation of the same provision, and triple for each violation of the same provision thereafter;
- (b) Suspension, revocation, or non-renewal of the approval of the SPS associated with the DDS;
- (c) Suspension, revocation, or non-renewal of the certificate of registration of the DDS issued by the Office under Chapter 16 of this title;
- (d) Confiscation of any SPS equipment used in violation of this chapter; or
- (e) A combination of the sanctions enumerated in this subsection.

1407 ENFORCEMENT OF THIS CHAPTER

1407.1 The enforcement of any provision of this chapter shall be governed by the procedures set forth in Chapter 7 (Enforcement of this Title) of this title.

1499 DEFINITIONS

1499.1 The terms “sedan,” “limousine,” “owner,” and “operator” shall have the meanings ascribed to them in Chapter 12 of this title.

1499.2 The terms “dispatch,” “digital dispatch,” “digital dispatch service,” “DDS,” and “digital payment” shall have the meanings ascribed to them in Chapter 16 of this title.

1499.3 The term “cashless meter payment” shall have the meaning ascribed to it in Chapter 6 of this title.

1499.4 The following words and phrases shall have the meanings ascribed:

“Associated” connotes a voluntary relationship of employment, contract, ownership, or other legal affiliation. For purposes of this chapter, an association not in writing shall be ineffective for compliance purposes.

A “PVIN” or public vehicle-for-hire identification number is a unique number assigned by the Office of Taxicabs to each public vehicle-for-hire.

“Sedan passenger surcharge” means a twenty-five cent (\$.25) passenger surcharge required to be received by the Office for each trip in a sedan.

Copies of this proposed rulemaking can be obtained at www.dcregs.dc.gov or by contacting Jacques Lerner, General Counsel and Secretary to the Commission, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. All persons desiring to file comments on this proposed rulemaking should submit written comments via e-mail to dctc@dc.gov or by postal mail or hand delivery to the DC Taxicab Commission, 2041 Martin Luther King, Jr., Ave., S.E., Suite 204, Washington, D.C. 20020, Attn: Jacques Lerner, Interim General Counsel and Secretary to the Commission. Comments should be filed within thirty (30) days after publication of this notice in the *D.C. Register*.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in Sections 8(b)(1)(C), (D), (E), (F), (G), (I), (J), 14 and 20 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1)(C), (D), (E), (F), (G), (I), (J) and 50-319 (2009 Repl.), and D.C. Official Code § 50-313 (2009 Repl.; 2012 Supp.); D.C. Official Code § 47-2829(b), (d), (e), (e-1), and (i) (2012 Supp.); Section 12 of the 1919 District of Columbia Taxicab Act, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); and Section 6052 of the District of Columbia Taxicab Commission Fund Amendment Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 50-320(a)) (2012 Supp.), hereby gives notice of proposed rulemaking to establish a new Chapter 16 (Dispatch Services) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR). The rulemaking establishes substantive rules governing the administration and operation of dispatch services in the District of Columbia.

The Commission also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*.

The Commission intends to add Chapter 16, DISPATCH SERVICES, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, to read as follows:

CHAPTER 16 DISPATCH SERVICES

1600 APPLICATION AND SCOPE

1600.1 The purpose of this chapter is to establish substantive rules governing the administration and operation of dispatch services for public vehicles-for-hire, including rules to ensure the safety of passengers and operators, for consumer protection, and to collect a passenger surcharge.

1600.2 The provisions of this chapter shall be interpreted to comply with the language and intent of the District of Columbia Taxicab Commission Establishment Act of 1985, D.C. Official Code §§ 50-301 *et seq.*

1600.3 In the event of a conflict between a provision of this chapter and a provision of another chapter of this title, the more restrictive provision shall control.

1601 GENERAL REQUIREMENTS

1601.1 Each dispatch service shall maintain a bona fide administrative office or a registered agent authorized to accept service of process, in compliance with the applicable provisions of Chapters 5 and 6 of this title.

1601.2 Each dispatch service shall maintain a customer service telephone number for passengers with a “202” prefix or a toll-free area code, or an email address posted on its website that is answered or replied to during normal business hours.

1601.3 Each dispatch service shall charge passengers only the following fares and charges for a trip in a dispatched public vehicle-for-hire:

- (a) For taxicab service, the rates and charges permitted by Chapter 8 of this title;
- (b) For sedan service, the rates and charges permitted by Chapter 14 of this title; and
- (c) The applicable passenger surcharge.

1601.4 Each dispatch service shall maintain a website that includes:

- (a) The name of the dispatch service;
- (b) Contact information for its bona fide administrative office or registered agent authorized to accept service of process;
- (c) The dispatch service customer service telephone number or email address;
- (d) A statement of the rates and charges applicable to each class of service offered by a digital dispatch service (“DDS”) pursuant to § 1601.6, including, for sedan service, whether the digital dispatch service uses surge or demand pricing and, if so, how such pricing affects charges; and
- (e) The following statement prominently displayed:

District of Columbia public vehicles-for-hire are regulated by the D.C. Taxicab Commission
2041 Martin Luther King Jr., Ave., SE, Suite 204
Washington, DC. 20020
Internet: www.dctaxi.dc.gov
Email: dctc3@dc.gov
Toll-Free Telephone: 1-855-484-4966
TTY: 711

1601.5 Each dispatch service shall be operated only in compliance with §§ 508 - 513 of this title, to the same extent as a taxicab company.

- 1601.6 Each dispatch service shall be available throughout the entire District of Columbia.
- 1601.7 Requirements for dispatches. Each dispatch, regardless of the combination of technologies used to connect a passenger to a public vehicle-for-hire, shall contain the following elements:
- (a) Such advertising, public service announcements, communications, or other content as determined by the dispatch service; and
 - (b) The following communications, in the following order:
 - (1) A communication between the passenger and the dispatch service during which the passenger shall be permitted to request a wheelchair-accessible vehicle, if available;
 - (2) An offer of service by the dispatch service to the passenger, which, if for sedan service, shall disclose the fare calculation method using the fare information posted at that time on the dispatch service website and shall provide the passenger with an estimated fare;
 - (3) An acceptance of service by the passenger; and
 - (4) An acknowledgement by the dispatch service with an estimated time of arrival of the booked vehicle.
- 1601.8 Each dispatch service shall require a booked operator to pick up the passenger at the time and location agreed in the dispatch.
- 1601.9 A dispatch service shall not release information to any person that would result in a violation of a passenger's personal privacy or threaten the safety of a passenger or an operator, or release or permit an unauthorized person to gain access to real-time information about the location, apparent gender, or number of passengers who are awaiting pick up. This section shall not limit access to information by public vehicle inspection officers and other law enforcement personnel, or by other authorized officials of the Office.
- 1601.10 Each dispatch service shall:
- (a) Store its business records in a safe and secure manner, and in compliance with industry best practices and applicable federal and District law;
 - (b) Make its business records (including business records relevant to compliance with this title by both the dispatch service and by its associated organizations, operators, and vehicles) available for inspection

and copying during regular business hours at the Office or at its bona fide administrative office, if maintained, within five (5) business days of its receipt of a written demand from the Office; and

(c) Retain its business records for at least five (5) years.

1601.11 A dispatch service shall notify the Office if it learns of a security breach as to which a report must be made pursuant to the D.C. Consumer Personal Information Security Breach Notification Act of 2006, D.C. Official Code §§ 28-3851, *et seq.* or other applicable law.

1601.12 Each dispatch service shall only use technology that meets Open Web Application Security Project (“OWASP”) security guidelines, that complies with the current standards of the PCI Security Standards Council (“Council”) for payment card data security, if such standards exist, and, if not, then with the current guidelines of the Council for payment card data security, and, that, for direct debit transactions, complies with the rules and guidelines of the National Automated Clearing House Association.

1601.13 Each dispatch service shall be in compliance with all applicable provisions of this title and other laws applicable to public vehicles-for-hire, including all reciprocal agreements between governmental bodies in the Washington Metropolitan Area governing public vehicle-for-hire service such as those in § 828 of this title.

1601.14 Each dispatch service and its owners, operators, officers, employees, agents, and representatives shall, at all times, cooperate with the instructions of public vehicle enforcement inspectors, other law enforcement officers, and other authorized officials of the Office and General Counsel to the Commission.

1602 OPERATING AUTHORITY

1602.1 No person may operate a central dispatch service in the District of Columbia without a certificate of operating authority issued by the Office for a taxicab company pursuant to Chapter 5 of this title.

1602.2 No person may operate a digital dispatch service in the District of Columbia without a certificate of registration issued pursuant to this section.

1602.3 A person seeking to operate a digital dispatch service in the District of Columbia may submit an application for a certificate of registration by filing an application with the Office under penalty of perjury, accompanied by a fee of one-thousand dollars (\$1,000), and including the following information:

(a) The name, address, and telephone numbers of the applicant;

- (b) The name, address, and telephone numbers of the proposed digital dispatch service, including the owner and operator;
- (c) The name and contact information of other public vehicle-for-hire businesses or services associated with the proposed digital dispatch service (such as a taxicab company under Chapter 5 of this title or a payment service provider under Chapter 6 of this title), if any;
- (d) The contact information for the bona fide administrative office or registered agent authorized to accept service of process;
- (e) The customer service telephone number or email address;
- (f) The URL for the digital dispatch service's website;
- (g) The trade names used by the proposed digital dispatch service for the services it wishes to offer within and outside the District;
- (h) The names and versions of the mobile and web applications the digital dispatch service proposes to use for digital dispatch and digital payments;
- (i) Information and documentation showing that the digital dispatch service is licensed to do business in the District of Columbia and is in compliance with all laws, rules, and regulations concerning the operation of a place of business in the District, or maintains a registered agent authorized to accept service of process, provided, however, that a digital dispatch service operated by a taxicab company licensed under Chapter 5 of this title shall maintain a bona fide administrative office;
- (j) A certification that the digital dispatch service is in compliance with the clean hands requirements of D.C. Official Code § 47-2862; and
- (k) A statement of whether the digital dispatch service anticipates or is concurrently seeking approval from the Office to provide digital dispatch of taxicabs, sedans, or both.

1602.4 An applicant for a renewal certificate of registration shall provide the following:

- (a) The information or documentation required for an application for a new certificate of registration to the extent required by the Office; and
- (b) A list of any incidents since the prior certificate of registration was issued involving:
 - (1) A payment dispute of twenty-five dollars (\$25) or more for a taxicab trip or fifty dollars (\$50) or more for a sedan trip;

- (2) Fraud, misrepresentation, or criminal activity in connection with its services;
- (3) Failure to provide a wheelchair-accessible vehicle to a passenger if one was available; or
- (4) Failure to comply with the anti-discrimination rules of Chapter 5 of this title.

- 1602.5 The Office shall verify all information and documentation provided by the applicant for a new or renewal application, and may require the applicant to provide additional information to complete the application.
- 1602.6 A decision to grant or deny a new or renewal application shall be made by the Office within thirty (30) days of the filing of the application, except that this time may be extended by the Office for fifteen (15) days upon written notice to the applicant.
- 1602.7 If the Office grants an application, it shall issue a new or renewal certificate of registration in a form setting forth such information as the Office deems appropriate.
- 1602.8 If the Office denies an application on any ground, it shall transmit a written notice of denial to the applicant. The notice shall summarize the reasons for the Office's decision. A denial may be appealed to the Chairman within fifteen (15) business days after the notice is sent. If not appealed during such period, the Office's decision shall constitute a final decision of the Commission. If the notice is appealed within the fifteen (15) business day time period, the Chairman shall issue a decision on an appeal within thirty (30) days. A timely appeal of a denial of a renewal application shall extend a DDS's privilege to operate under its existing certificate of registration pending the Chairman's decision on the appeal. A decision of the Chairman to affirm or reverse a denial shall constitute a final decision of the Commission. A decision of the Chairman to remand a denial of a renewal application with instructions to the Office shall extend a DDS' privilege to operate under its existing certificate of registration pending the final decision of the Office or of the Chairman, if a subsequent denial is also appealed.
- 1602.9 A new certificate of registration shall be effective for one (1) year from the date of its issuance.
- 1602.10 An application for a renewal certificate of registration shall be filed not less than forty-five (45) days prior to the expiration of an existing certificate of registration, but this deadline may be extended for good cause shown.

- 1602.11 While an application for a new certificate of registration is pending, any material change in the information required by this section, or any change in identifying or contact information relating to persons, entities, or vehicles shall be reported to the Office within three (3) business days.
- 1602.12 The Office shall deny an application that contains materially false information that was provided to induce approval or as to which materially false information was provided to the Office to induce approval.

1603 PROVISION OF ADDITIONAL SERVICES

- 1603.1 A dispatch service may be operated by a person that offers other services regulated by this title (such as a taxicab company under Chapter 5 of this title or a payment service provider under Chapter 6 of this title) provided that the other services are provided in compliance with all applicable provisions of this title and other applicable laws, and may share a place of business with such other service if such place of business is in compliance with this title and other applicable laws including the requirement for a certificate of occupancy provided by the Department of Consumer and Regulatory Affairs.
- 1603.2 A dispatch service with valid and current authority to operate under this chapter may dispatch taxicabs in compliance with the provisions of this chapter and Chapters 6 and 8 of this title.
- 1603.3 A digital dispatch service with valid and current authority to operate under this chapter may dispatch sedans as provided in this chapter and Chapter 14 of this title.

1604 PROHIBITIONS

- 1604.1 No person may operate a dispatch service or dispatch a public vehicle-for hire in the District of Columbia except as provided in this chapter.
- 1604.2 No dispatch service may assess, collect, process, or charge any person a rate or charge in connection with a trip in a public vehicle-for-hire that does not meet the requirements of § 1601.3.
- 1604.3 No dispatch service may alter or attempt to alter its legal obligations under this title or to impose an obligation on any person that is contrary to public policy or that threatens passenger or operator safety, or consumer protection.
- 1604.4 A dispatch service shall not associate with an operator who is currently providing public vehicle-for-hire service using a vehicle owned by a person providing a dispatch service to its associated operators.

1605 ENFORCEMENT

1605.1 The enforcement of any provision of this chapter shall be governed by the procedures set forth in Chapter 7 of this title.

1606 PENALTIES

1606.1 A dispatch service that violates this chapter shall be subject to:

- (a) A civil fine of five hundred dollars (\$500) for the first violation of a provision, one-thousand dollars (\$1,000) for the second violation of the same provision, and one-thousand five-hundred dollars (\$1,500) for each subsequent violation of the same provision;
- (b) Suspension, revocation, or non-renewal of a Certificate of Registration or Certificate of Operating Authority;
- (c) Any penalty available under Chapter 6 in connection with the service and support of an MTS for the operation of taxicabs or under Chapter 14 in connection with the service and support of an SPS for the operation of sedans; or
- (d) Any combination of the sanctions listed in this subsection.

1699 DEFINITIONS

1699.1 The terms “cashless payment,” “modern taximeter system,” “MTS,” “payment service provider” and “PSP” shall have the meanings ascribed in Chapter 6 of this title.

1699.2 The term “sedan” shall have the meaning ascribed to it in Chapter 12 of this title.

1699.3 The terms “digital payment,” “sedan payment system,” and “SPS” shall have the meanings ascribed to them in Chapter 14 of this title.

1699.4 The term “person” and “license” shall have the meanings ascribed to them in the D.C. Administrative Procedure Act, D.C. Official Code § 2-502.

1699.5 The following words and phrases shall have the meanings ascribed:

“Associated” connotes a voluntary relationship of employment, contract, ownership, or other legal affiliation. For purposes of this chapter, an association not in writing shall be ineffective for compliance purposes.

“Central dispatch” is dispatch via telephone, radio, or other non-digital means.

“Digital dispatch” is dispatch via computer, mobile phone application, text, email, or Web-based reservation.

“Digital payment” means a non-cash payment processed by a digital dispatch service and not by the vehicle operator, such as a payment by a payment card (a credit or debit card), processed through a mobile- or Web-based application. A digital payment does not mean a “cashless payment” as such term is defined in Chapter 6 of this title.

“Dispatch” is the booking of a trip by a public vehicle-for-hire through an advance reservation.

“Dispatch service” is a business that offers central or digital dispatch.

“Passenger surcharge” means the surcharge required to be collected and remitted to the Office for each trip in a taxicab or sedan, in an amount established by Chapter 6 for taxicabs, and by Chapter 14 for sedans.

Copies of the intended rulemaking can be obtained at www.dcregs.dc.gov or by contacting Jacques Lerner, General Counsel and Secretary to the Commission, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. All persons desiring to file comments on the intended rulemaking should submit written comments via e-mail to dctc@dc.gov or by postal mail or hand delivery to the DC Taxicab Commission, 2041 Martin Luther King, Jr., Ave., S.E., Suite 204, Washington, D.C. 20020, Attn: Jacques Lerner, Interim General Counsel and Secretary to the Commission. Comments should be filed within thirty (30) days after publication of this notice in the *D.C. Register*.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in Sections 8(b)(1)(E), (I) and (J) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1)(E), (I) and (J) (2009 Repl.; 2012 Fall Supp.)); Section 12 of the 1919 District of Columbia Taxicab Act, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); and by Section 6051 of the Fiscal Year 2013 Budget Support Act of 2012 (District of Columbia Commission Fund Amendment Act of 2012), effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 50-320(a))(2012 Supp.), hereby gives notice of its intent to adopt amendments to Chapters 4, 5, 6, 7, 8 and 10 of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

The proposed amendments clarify jurisdiction, procedures, and timelines for enforcing violations of Title 31. The rulemaking creates procedural, and not substantive, rules, while clarifying that all enforcement actions shall be governed by Chapter 7 of this Title.

The Commission also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*.

Chapter 7, COMPLAINTS AGAINST TAXICAB OWNERS OR OPERATORS, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR is amended as follows:

The title of Chapter 7 is amended to read as follows:

CHAPTER 7 ENFORCEMENT OF THIS TITLE

Section 700, APPLICATION AND SCOPE, is amended as follows:

Subsection 700.1 is amended to read as follows:

700.1 The purpose of this chapter is to create procedural rules for the enforcement of the provisions of this title against any person regulated by this title.

Subsection 700.3 is amended to read as follows:

700.3 In the event of a conflict between a provision of this chapter and a provision of another chapter of this title, the provision of this chapter shall control.

The title of Section 701 is amended to read as follows:

701 CONTESTED CASES

Section 701, CONTESTED CASES, is amended as follows:

Subsections 701.1, 701.2, and 701.3 are amended to read as follows:

- 701.1 The Office of Taxicabs (“Office”) may initiate a contested case alleging the violation of one or more provisions of this title by serving on a respondent through a public vehicle enforcement inspector (hack inspector), mediation officer, enforcement officer, general counsel, or other authorized official:
 - (a) A notice of infraction seeking a penalty authorized by a provision of this title; or
 - (b) A notice of summary or proposed action by the Office:
 - (1) Denying, revoking, or suspending a license; or
 - (2) Requiring the respondent to cease and desist conduct that violates a provision of this title, or to take action necessary to achieve compliance with a provision of this title.
- 701.2 A contested case shall be adjudicated by the Office of Administrative Hearings (“OAH”) or by such other authorized official as designated in the notice.
- 701.3 In addition to any other penalty authorized by a provision of this title, the Office may recommend to another government agency the denial, revocation, or suspension of any license that may be issued by such other agency.

Subsections 701.4 through 701.12 are DELETED.

The title of Section 702 is amended as follows:

COMPLAINTS

Section 702, COMPLAINTS, is amended to read as follows:

- 702 COMPLAINTS**
- 702.1 The Office shall receive complaints by members of the public orally by telephone or in person, or in writing through the Commission’s website, by email, by U.S. Mail, or by a courier delivery service. An oral complaint shall be reduced to writing prior to the Office initiating a contested case based on such complaint.
- 702.2 The Office shall provide written notice to each complainant that his or her complaint has been received, within seventy-two (72) hours of receiving a

complaint submitted in writing or within seventy-two (72) hours after a complaint originally submitted orally is reduced to writing by the Office.

702.3 If the Office determines that a complaint has merit, it shall provide written notice to the person who is the subject of the complaint. The notice shall include a detailed description of the complaint, including the time, place, and location of any incident referenced in the complaint, and the potential penalties if a contested case is initiated based on the complaint.

702.4 The Office may, in its sole discretion, invite a person who is the subject of a complaint to engage in settlement negotiations, which shall proceed according to any guidelines or orders that may be issued by the Office, and during which the parties may negotiate a payment of fines, admission of liability, execution of a compliance agreement or consent decree, or any other relief authorized by law. A party’s offer to compromise made orally or in writing during voluntary settlement negotiations shall be inadmissible in any contested case.

702.5 The Office shall initiate any contested case based on a complaint not later than sixty (60) days after the incident giving rise to such complaint, or sixty (60) days after the complaint is submitted, whichever is later, provided, however, that such period shall be subject to tolling as provided by District of Columbia case law applicable to limitations periods.

702.6 There shall be displayed in a suitable frame on the back of the front seat of each taxicab, in a position as to be clearly visible to passengers, notice of the procedure to be followed by persons wishing to file a complaint.

702.7 Each taxicab operating in the District of Columbia shall prominently display the passenger rights form that shows the address and telephone number of the District of Columbia Taxicab Commission.

Section 703 is REPEALED.

Section 799, DEFINITIONS, is amended as follows.

Subsection 799.1 is amended to read as follows:

799.1 The terms “adjudication,” “contested case,” “order,” “person,” “party,” and “license” shall have the meanings ascribed to them in Section 3 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-502).

A new Subsection 799.2 is added to read as follows:

799.2 The following words and phrases shall have the meanings ascribed:

“Respondent” - a person against whom a contested case is initiated.

“Complainant” - a member of the public who submits a complaint.

Chapter 4, HEARING PROCEDURES APPLICABLE TO NOTICES OF INFRACTIONS, is DELETED and RESERVED.

Chapter 5, TAXICAB COMPANIES, ASSOCIATIONS, AND FLEETS AND INDEPENDENT TAXICABS, is amended as follows:

Subsection 500, APPLICATION AND SCOPE, is amended to read:

500.3 The enforcement of this chapter shall be governed by the procedures set forth in Chapter 7 of this title.

Subsection 510.3 is DELETED.

Subsections 518.2 and 518.3 are DELETED.

Chapter 6, TAXICABS PARTS AND EQUIPMENT, is amended as follows:

Section 600, APPLICATION AND SCOPE, is amended to read:

600.5 The enforcement of this chapter shall be governed by the procedures set forth in Chapter 7 of this title.

Chapter 8, OPERATION OF TAXICABS, is amended as follows:

The title of Section 826 is amended to read:

ENFORCEMENT OF THIS CHAPTER

Section 826, ENFORCEMENT OF THIS CHAPTER, is amended as follows:

826.1 The enforcement of this chapter shall be governed by the procedures set forth in Chapter 7 of this title.

Chapter 10, PUBLIC VEHICLES FOR HIRE, is amended as follows:

Subsection 1002, APPLICATION FOR A HACKER’S LICENSE; FEES, is amended to read:

1002.10 The denial of a hacker’s license for failure to successfully take and pass the written examination is not reviewable on appeal.

Section 1013 is DELETED.

A new Section 1013, ENFORCEMENT, is added.

1013.1 The enforcement of this chapter shall be governed by the procedures set forth in Chapter 7 of this title.

All persons desiring to file comments on the proposed rulemaking action should submit written comments via e-mail to dctc@dc.gov or by mail to the DC Taxicab Commission, 2041 Martin Luther King, Jr., Ave., S.E., Suite 204, Washington, DC 20020, Attn: Jacques P. Lerner, General Counsel and Secretary to the Commission, no later than thirty (30) days after the publication of this notice in the *D.C Register*. Copies of this proposed rulemaking can be obtained at www.dcregs.dc.gov or by contacting Jacques P. Lerner, General Counsel and Secretary to the Commission, at the above address.

DISTRICT DEPARTMENT OF TRANSPORTATION**NOTICE OF PROPOSED RULEMAKING**

The Director of the District Department of Transportation (Department), pursuant to the authority set forth in Sections 4(5)(A) (assigning authority to coordinate and manage public right of way permits and records to the Department Director), 5(4)(A) (assigning duty to review and approve public right of way permit requests to the Department Director), and 6(b) (transferring the public right-of-way maintenance function previously delegated to the Department of Public Works under Section III(F) of Reorganization Plan No. 4 of 1983 to the Department) of the Department of Transportation Establishment Act of 2002 (DDOT Establishment Act), effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.03(5)(A)(2012 Supp.), 50-921.04(4)(A)(2012 Supp.), and 50-921.05(b)(2009 Repl.)), and Section 604 of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198; D.C. Official Code § 10-1141.04 (2012 Supp.)), which was delegated to the Director of the Department of Public Works pursuant to Mayor's Order 96-175, dated December 9, 1996, and subsequently transferred to the Director of the Department in Section 7 of the DDOT Establishment Act (transferring to the Director of the Department all transportation-related authority previously delegated to the Director of the Department of Public Works) (D.C. Official Code § 50-921.06), hereby gives notice of the intent to adopt amendments to Title 24, "Public Space and Safety", of the District of Columbia Municipal Regulations (DCMR). The amendments will revise Chapter 33, "Public Right-of-Way Occupancy Permits", to modify the regulations for non-WMATA buses to correspond with the new intercity bus regulations.

Proposed regulations were published in a Notice of Proposed Rulemaking in the *D.C. Register* on March 11, 2011, at 58 DCR 2242. In response to public comments received, the proposed rulemaking was revised to expand its application beyond sightseeing bus operations; to include a single permit requirement; to require a sign in public right of way at every stop at which the bus will occupy the public right of way to pick up and drop off passengers; to allow pick-up and drop-off in the public right of way at alternate locations when a permitted stop is closed to vehicle access due to certain circumstances; to allow for multiple operations to have a single sign in the public right of way; to have the associated fee for a shared sign be no higher than the fee for a single sign; and to set a date by which bus operators must obtain a permit for picking up and discharging passengers in public right of way. In addition, this rulemaking will repeal the regulations for the occupancy of the public right of way by tour buses because the rulemaking will provide a more efficient use of the public right of way for dropping off and picking up passengers.

Final rulemaking action shall not be taken in less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Chapter 33, PUBLIC RIGHT-OF-WAY OCCUPANCY PERMITS, of Title 24, PUBLIC SPACE AND SAFETY, of the DCMR is amended as follows:

Section 3301, OCCUPATION OF PUBLIC SIDEWALKS WITH PERSONALIZED PAVERS, Subsection 3301.6 is amended as follows:

Strike the phrase “3304” wherever it appears and insert the phrase “3310” in its place; and strike the phrase “3304.9; 3304.11 3304.12, and 3304.16” wherever it appears and insert the phrase “3310.9, 3310.11, 3310.12, and 3310.16” in its place, so that the provision reads as follows:

3301.6 All terms and conditions set forth in § 3310 of this Chapter shall apply to Public Rights-of-Way Occupancy Permits issued for personalized pavers, with the exception of 3310.9, 3310.11, 3310.12, and 3310.16.

Section 3304, OCCUPANCY OF THE PUBLIC RIGHT OF WAY BY TOUR BUSES, is repealed.

Section 3306 is amended to read as follows:

3306 DESIGNATION OF PASSENGER PICK-UP AND DROP-OFF SITES WITH APPROVED SIGNAGE IN THE RIGHT OF WAY FOR COMMUTER, SHUTTLE, SIGHTSEEING, AND TOUR BUSES

3306.1 A Bus Operator that seeks to occupy a public right of way by stopping to pick up or discharge passengers in the public right of way shall obtain an annual Bus Right of Way Occupancy permit from the Department.

3306.2 At each location where a Bus Operator is authorized to occupy public right of way to stop to pick up or discharge passengers, the Bus Operator must post a sign in the public right of way notifying the public where the bus will stop to pick up or discharge passengers. No sign may be posted by a Bus Operator unless the posting of the sign has been approved as part of a Bus Right of Way Occupancy permit issued by the Department.

3306.3 A bus operator shall provide one of the following four (4) services to be eligible for a Bus Right of Way Occupancy permit from the Department:

- (a) Commuter bus service;
- (b) Shuttle bus service;
- (c) Sightseeing bus service; or
- (d) Tour bus service.

3306.4 Multiple Bus Operators may obtain permission to post a single sign designating a stop in public right of way at which any of the Bus Operators may stop to pick up or discharge passengers. The fee for an individual shared sign shall not exceed the fee for an individual single operator sign. The fee for a shared sign shall be apportioned on a pro rata basis among the multiple Bus Operators who have been permitted to post the sign. No shared sign may be posted until the entire fee has been paid by all Bus Operators permitted to post the sign.

3306.5 The application fee for the Bus Right of Way Occupancy permit shall be the application fee established in § 225 of this title. Except for a Public Transit Agency, a permittee shall also pay an annual permit fee for each bus sign posted in public right of way in the following amounts:

- (a) Sign affixed to an existing pole or structure in public right of way, or a freestanding or portable sign: Two hundred fifty dollars (\$250) per sign;
- (b) Sign affixed to a new pole or structure in public right of way as proposed by permittee (new pole or structure to be provided and installed by permittee after receipt of permit): Five hundred dollars (\$500) per sign.

3306.6 In addition to the permit fee specified in § 3306.3, the permittee shall pay a technology fee in the amount of ten percent (10%) of the permit fee paid.

3306.7 A Bus Operator seeking an annual Bus Right of Way Occupancy permit shall file an application on a form provided by the Department. The form shall include the following information:

- (a) Information on the Bus Operator, including:
 - (1) The name of the Bus Operator;
 - (2) The mailing and physical addresses of the Bus Operator; and
 - (3) The phone number, fax number, email address, and website of the Bus Operator; and
- (b) Information on the proposed occupancy of the public right of way, including:
 - (1) The location of all stops in the District of Columbia at which passengers will be picked up or dropped off in the public right of way;

- (2) The route(s) that the buses will take between any stops within the District of Columbia;
- (3) The hours and days for which the Bus Operator proposes occupying the public right of way for the loading and unloading of passengers;
- (c) Information on the signs to be posted in public right of way at each stop identified in paragraph (b)(1) of this subsection, including:
 - (1) A site plan showing the locations of the poles or structures to which proposed signs will be affixed and the locations on the sidewalk where freestanding or portable signs will be placed;
 - (2) The size, material, and specifications for a new pole, if required;
 - (3) If the sign is proposed to be affixed to an existing pole or structure, a description of the signs currently affixed to the existing pole or structure;
 - (4) An actual-size sample of the proposed sign that shall not be larger than twelve inches by eighteen inches (12" x 18"); and
 - (5) A description of how the sign will be affixed to the pole or structure in public right of way; and
- (d) Such other information as may be required by the Department.

3306.8 No sign may include an advertisement other than the name and logo of the bus company.

3306.9 No bus sign may be posted on a Metrobus pole nor may any bus sign be posted in a marked Metrobus Zone.

3306.10 No bus sign may be posted in any public right of way space reserved for metered public parking.

3306.11 An application for a Bus Public Right of Way Occupancy permit shall be reviewed for conformance with District of Columbia traffic safety requirements, transportation network policies, and streetscape design elements. In determining whether to grant a Bus Right of Way Occupancy permit, the Department shall consider the following factors:

- (a) The direct impact on pedestrian and vehicular traffic, including bicycle and other non-motorized vehicular traffic;

- (b) The bus service schedule, peak hour(s) concentration, and anticipated traffic conditions;
- (c) The number of passengers expected to board or disembark at any given time;
- (d) The anticipated impact on nearby public transit systems; and
- (e) Any other effect of the proposed operations in public right of way on public health or safety and the efficient and safe operation of the existing transportation network, including pedestrian, vehicle, and all other modes of transportation.

3306.12 Payment in full of the annual permit fee shall be made to the District prior to the issuance of the Bus Right of Way Occupancy permit.

3306.13 A Bus Right of way Occupancy permit shall expire one (1) year after its effective date. A permittee that seeks to continue to occupy the public right of way after the one (1)-year period shall submit a new permit application at least thirty (30) days before the expiration date of the current permit. If all of the information required by § 3306.5 remains unchanged from the most recent application, the new permit application need only contain a statement confirming there have been no changes. If any of the information has changed, the application shall include the information required by § 3306.5 that has changed, along with a statement confirming that there have been no other changes.

3306.14 (a) Except as provided for in paragraph (b) of this subsection, no Bus Operator may occupy public right of way to stop and pick up or discharge passengers except in the stops approved as part of a Bus Right of way Occupancy permit.

(b) Notwithstanding paragraph (a) of this subsection, a Bus Operator may occupy the public right of way to stop to pick up or discharge passengers at the nearest reasonable location closest to a stop approved as part of a Bus Right of Way Occupancy permit, when the curbside where the approved stop is closed due to one of the following special circumstances:

- (1) A special event approved by the Mayor's Special Events Task Force;
- (2) A Temporary Public Space Occupancy permit issued by the Department; or
- (3) An order of the Metropolitan Police Department or other law enforcement or emergency response agency of competent jurisdiction.

- (c) The Bus Operator must return to use the approved stop to pick up or discharge passengers as soon as the curbside location closed pursuant to paragraph (b) of this subsection reopens to public use.
- 3306.15 When occupying public right of way at an approved stop, the Bus Operator must be in the process of actively loading or unloading bus passengers and must otherwise abide by all other existing and applicable curbside regulations.
- 3306.16 The Department may revoke a Bus Operator's Bus Right of Way Occupancy permit and require the permittee to remove its signs and poles from the public right of way if the Bus Operator:
 - (a) Fails to pay in full its annual permit renewal fee, including fees for any signs; or
 - (b) Violates any other requirement listed in this section.
- 3306.17 These regulations shall take effect June 1, 2013.
- 3306.18 A Bus Operator already providing service in the District on the effective date of this chapter shall have until August 1, 2013 to apply for and receive a Bus Right of Way Occupancy permit.
- 3306.19 Each sign posted in the public right of way by a Bus Operator, and its associated pole or structure, if installed by the Bus Operator, that does not receive a Bus Right of Way Occupancy permit by August 1, 2013 must be removed by the Bus Operator.
- 3306.20 Starting August 1, 2013, a sign posted in the public right of way by a Bus Operator that does not have a Bus Right of Way Occupancy permit or has a Bus Right of Way Occupancy permit that has been revoked, may be removed by the Department. The Bus Operator shall be liable to the Department for the costs of any such removal.
- 3306.21 The District shall not incur any liability for removing a Bus Operator's signs or poles. The company whose signs or poles are removed shall be liable to the Department for the costs of the removal.

Section 3310, GENERAL TERMS AND CONDITIONS, Subsection 3310.2 is amended by striking the phrase "and 3304" where it appears, so that the provision reads as follows:

- 3310.2 The duration of Public Rights-of-Way Occupancy Permits is as follows, with provisions for renewal thereafter:

- (a) Permits issued pursuant to section 3302 shall be valid for twenty (20) years;
- (b) Permits issued pursuant to sections 3303 shall be valid for not more than one (1) year; and
- (c) All other Permits shall be valid for terms not to exceed ten (10) years.

Section 3399, DEFINITIONS, is amended to read as follows:

3399.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed below:

Act – Title VI of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198; D.C. Official Code 10-1141.01 *et seq.*).

Bus – a public or private vehicle having a seating capacity of more than fifteen (15) passengers, exclusive of the driver.

Bus Operator – a person that operates a bus service, whether directly or through contractors.

Commuter bus service- a bus that is used to transport passengers to and from worksites; provided, that this definition shall not include any vehicle owned or operated by the Washington Metropolitan Area Transit Authority.

Component device - communications equipment which alone, or as part of a communications network, is used to record, receive, store, or transmit information or data.

Department - District Department of Transportation.

Director - Director of the District Department of Transportation.

Mobile Storage Container - a moveable container that is temporarily placed on the public right of way and is used for short-term storage of items, including but not limited to, clothing, equipment, goods, household or office fixtures or furnishings, materials, and merchandise.

Occupy - to use public right of way, public rights of way, or public structures by installing, constructing, reconstructing, excavating, repairing, maintaining, or operating any structure, equipment, vehicle, facility, or other object (including but not limited to pipes, stand-alone conduits, tunnels, posts, or wires), in, over, under, along, through, on, across, or above the public rights-of-way under the jurisdiction of the District of Columbia government for any purpose.

Person - an individual, utility, firm, partnership, association, corporation, company, entity, or organization of any kind.

Personalized Paver - an engraved sidewalk treatment that is inscribed with the name or likeness of an individual or entity.

Public rights of way – the surface, the airspace above the surface (including air space immediately adjacent to a private structure located in a public right of way), and the area below the surface of any public street, bridge, tunnel, highway, lane, path, alley, sidewalk or boulevard.

Public Transit Agency - a municipal corporation or government agency (and its agents) that operates a bus, train, van, streetcar, trolley, subway, or rail vehicle for use by the general public.

Shuttle bus– a van or bus that is used to transport passengers to and from worksites.

Sightseeing bus service- a bus used for sightseeing and touring purposes, traveling a regular route at scheduled times and with specific stop(s), which is available to the general public for boarding or discharging at any stop, and used to transport passengers principally between multiple destinations of historic, cultural, architectural, or societal interest within the District of Columbia.

Stand-alone conduit - conduit that is not housed inside other conduit.

Tour bus service - a bus used for sightseeing and touring purposes, and used to transport passengers principally from one (1) destination to another and back to the original destination.

Van - a public or private vehicle having a seating capacity of between eight (8) and fifteen (15) passengers, exclusive of the driver.

Any person interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in the *D.C. Register*, with Sam Zimbabwe, Associate Director, District Department of Transportation, 55 M Street, S.E., 5th Floor, Washington, DC 20003. Comments may also be sent electronically to publicspace.policy@dc.gov. Additional copies of this proposal are available, at cost, by writing to the above address, and are available electronically, at no cost, on the Department's web site at www.ddot.dc.gov.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Directors of the District of Columbia Water and Sewer Authority (the Board), pursuant to the authority set forth in Section 216 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, §§ 203(3), (11) and 216; D.C. Official Code §§ 34-2202.03(3) and (11) (2010 Repl.) and D.C. Official Code § 34-2202.16 (2010 Repl.)); Section 6(a) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(a)(2011 Repl.)); and in accordance with Chapter 40, "Retail Ratemaking," of Title 21, "Water and Sanitation," of the District of Columbia Municipal Regulations (DCMR), hereby gives notice of its intention to amend Section 402, "Initiating A Challenge," of Chapter 4, "Contested Water and Sewer Bills," and Section 4101, "Rates for Sewer Service," of Chapter 41, "Retail Water and Sewer Rates," of Title 21, "Water and Sanitation," of the DCMR.

The Board expressed its intention to amend the DCMR at its regularly scheduled Board meeting held on March 7, 2013, pursuant to Board Resolution # 13-30. Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The Board will also accept comments on these proposed rules at a public hearing at a later date. The public hearing notice will be published in a subsequent edition of the *D.C. Register*.

Section 402, INITIATING A CHALLENGE of Chapter 4, CONTESTED WATER AND SEWER BILLS, of Title 21, WATER AND SANITATION, of the DCMR is amended as follows:

Subsections 402.7 and 402.8 are amended to read as follows:

- 402.7 Non-residential and multi-family owners or their agents may seek an impervious surface area charge adjustment if the owner or agent can establish that the property has been assigned to the wrong rate class, the impervious service area used in the computation of the charge is incorrect or if the ownership information is incorrect.
- 402.8 Non-residential and multi-family owners or their agents shall submit a site survey, prepared by a registered professional land surveyor, showing impervious surfaces on the site and other information that may be requested by WASA.

Section 4101, RATES FOR SEWER SERVICE, of Chapter 41, RETAIL WATER AND SEWER RATES, of Title 21, WATER AND SANITATION, of the DCMR is amended as follows:

Paragraphs 4101.1(d) and (e) are amended to read as follows:

- (d) The retail cooling water sewer charge shall be the retail sanitary sewer service rate set forth in Section 4101.1(a) for cooling water discharged into the District's wastewater sewer system; and
- (e) The retail non-potable water source sewer charge shall be the retail sanitary sewer service rate set forth in Section 4101.1(a) for non-potable water discharged into the District's wastewater sewer system.

Subsection 4101.4 is amended to read as follows:

4101.4 All non-residential and multi-family customers shall be assessed ERU(s) based upon the total amount of impervious surface area on each lot. This total amount of impervious surface shall be converted into ERU(s), truncated to the nearest one-hundred (100) square feet.

Comments on these proposed rules should be submitted, in writing, no later than thirty (30) days after the date of publication of this notice in the *D.C. Register* to, Linda R. Manley, Secretary to the Board, District of Columbia Water and Sewer Authority, 5000 Overlook Ave., S.W., Washington, D.C. 20032, by email to Lmanley@dcwater.com, or by FAX at (202) 787-2795. Copies of these proposed rules may be obtained from the DC Water at the same address or by contacting Ms. Manley at (202) 787-2332.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
CONSTRUCTION CODES COORDINATING BOARD**

NOTICE OF EMERGENCY RULEMAKING

The Chairperson of the Construction Codes Coordinating Board (Chairperson), pursuant to the authority set forth in Section 10 of the Construction Codes Approval and Amendments Act of 1986 (“Act”), effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409 (2008 Repl.)) and Mayor’s Order 2009-22, dated February 25, 2009, and the Director of the Department of Consumer and Regulatory Affairs (Director), pursuant to the authority set forth in Section 12 of the Green Building Act of 2006, effective March 8, 2007 (D.C. Law 16-234; D.C. Official Code § 6-1451.11 (2008 Repl.; 2012 Supp.)) as amended (“Green Building Act”), Mayor’s Order 2007-206, dated September 21, 2007, and Mayor’s Order 2010-1, dated January 5, 2010, hereby give notice of the adoption of the following emergency rulemaking amending Subtitle A (Building Code Supplement) of Title 12 (District of Columbia Construction Codes Supplement of 2008) of the District of Columbia Municipal Regulations.

An emergency rulemaking may be made in the event where it is necessary for the immediate preservation of the public peace, health, safety, welfare, or morals. This emergency rulemaking is necessitated by the immediate need to implement provisions of the Green Building Act dealing with applicability of the law to construction projects, the process for submitting a financial security for certain projects, drawdowns of the financial security, and verification of compliance with the Green Building Act.

A notice of emergency and proposed rulemaking was previously published in the *D.C. Register* on November 30, 2012 (59 DCR 13942). Pursuant to Section 10(a) of the Act and Section 12(a) of the Green Building Act, a proposed resolution to approve the notice of emergency and proposed rulemaking, the District of Columbia Building Code Supplement Amendment Resolution of 2013 (P.R. 20-113), was submitted to the Council of the District of Columbia for a forty-five (45) day period of review. This emergency rulemaking ensures there is no lapse in the implementation of the Green Building Act provisions during the Council review period.

This emergency rulemaking was adopted on March 4, 2013, to become effective immediately. This emergency rulemaking will remain in effect for up to one hundred twenty (120) days from the date of effectiveness. The rules will expire on July 2, 2013.

Subtitle A (Building Code Supplement) of Title 12 (D.C. Construction Codes Supplement of 2008) of the District of Columbia Municipal Regulations is amended as follows:

Chapter 2A (Definitions) is amended as follows:

Insert the following new definitions in Section 202A of the Building Code to read as follows:

PROJECT. The construction of a single or multiple buildings that are part of one development scheme, built at one time or in phases.

DISTRICT FINANCED. (1) Financing of a project or contract where funds or resources to be used for construction and development costs, excluding ongoing operational costs, are received from the District, or funds or resources which, in accordance with a federal grant or otherwise, the District administers, including a contract, grant, loan, tax abatement or exemption, land transfer, land disposition and development agreement, or tax increment financing, or any combination thereof, provided, that federal funds may be applied to the financing percentage only if permitted by federal law and grant conditions; or (2) Financing whose stated purpose is, in whole or in part, to provide for the new construction or substantial rehabilitation of affordable housing.

DISTRICT INSTRUMENTALITY FINANCED. See *District financed*.

FLOOR AREA, GROSS (For Chapter 13A). The definition of *gross floor area* set forth in DCMR Title 11 (Zoning Regulations), Section 199 (Definitions), and as interpreted by the Zoning Administrator, is incorporated by this reference.

GROSS FLOOR AREA. See *Floor area, gross*.

Chapter 13A (Green Building Promotion) is amended to read as follows:

CHAPTER 13A GREEN BUILDING ACT REQUIREMENTS

Strike Chapter 13A of the International Building Code (2006) in its entirety and insert new Chapter 13A in the Building Code in its place to read as follows:

1301A General

1301A GENERAL

1301.1 Green Building Act of 2006 requirements. An applicant for permits subject to Section 1301.1.1 or Section 1301.1.2 shall comply with Sections 1301.1.3 through 1301.1.11 and the Green Building Act of 2006, effective March 8, 2007 (D.C. Law 16-234; D.C. Official Code §§ 6-1451.01 *et seq.* (2012 Supp.)), as amended (“Green Building Act” or “GBA”). Other components of the Green Building Act are administered by other District of Columbia agencies. The applicant shall have the option of requesting a Green Building Act Preliminary Design Review Meeting (“GBA PDRM”) with the Department, at the discretion of the applicant.

1301.1.1 Publicly-owned or publicly financed projects. This section shall apply to each *project* that is new construction or where the scope of work at the *project* is equivalent to Level 3 *alterations* as defined in the *Existing Building Code*; and is either:

1. A District-owned or District instrumentality-owned *project*; or
2. A *District financed* or *District instrumentality financed project*, where the financing represents at least 15 percent of the *project’s* total cost.

1301.1.1.1 Energy Star Target Finder Tool. Each *project* of 10,000 square feet (929 m²) or more of *gross floor area* shall be designed and constructed to achieve a minimum score of 75 points on the Energy Star Target Finder Tool. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the *code official* to verify compliance with this section.

Exceptions:

1. Building occupancies for which the Energy Star tool is not available.
2. Alterations.

1301.1.1.2 Non-residential projects. A *project* which does not contain Residential Group R occupancies that equal or exceed 50 percent of the gross floor area of the *project*, including allocable area of common space, shall be deemed a non-residential *project* and shall be designed and constructed so as to achieve no less than the applicable LEED standard listed in Section 1301.1.3, at the Silver level or higher. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the *code official* to verify compliance with this section.

Exceptions:

1. Educational Group E (covered by Section 1301.1.1.3).
2. Space designed and occupied for Residential Group R occupancies in a non-residential *project* (covered by Section 1301.1.1.4),
3. Space designed and occupied for non-residential uses located in a Residential Group R occupancy *project* (covered by Section 1301.1.1.5).
4. Space designed and occupied for non-residential uses located in a District-owned or a District instrumentality-owned building (covered by either Section 1301.1.1.6 or Section 1301.1.1.7 as applicable).

1301.1.1.3 Educational Group E. A *project* of Educational Group E occupancy owned, operated or maintained by the D.C. Public Schools (DCPS), or a public charter school, shall be designed and constructed to meet the LEED standard for Schools, at the Gold level or higher. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the *code official* to verify compliance with this section.

Exceptions:

1. Where sufficient funding is not available to meet the applicable LEED standard for Schools at the Gold level, then the *project* shall meet the

LEED standard for Schools at no less than the Certified Level of LEED standard for Schools. For the purpose of determining the applicability of this exception, “sufficient funding” shall mean the lack of committed public funds in an approved District budget to fund the LEED standard for Schools at the Gold level.

2. Where a *project* for Educational Group E occupancy is located in only a portion of a building, then only that portion of the building that is the subject of the *project* shall comply with this Section 1301.1.1.3.

1301.1.1.4 Project containing Residential Group R occupancies. Where a *project* contains 10,000 square feet (929 m²) or more of *gross floor area* for Residential Group R occupancies, including the allocable area of common space, then the residential occupancies of the *project* shall be designed and constructed to meet or exceed the Enterprise Green Communities standard, or a substantially equivalent standard as determined by the *code official*. This self-certification checklist shall be submitted to the *code official* with the application for the certificate of occupancy of the residential component of the *project*. The residential component of the *project* shall not be required to meet a LEED standard.

1301.1.1.5 Interior construction of a mixed use space in a Residential Group R project. Where Residential Group R occupancies exceed 50 percent of the *gross floor area* of the *project*, including allocable area of common space, and the *project* contains at least 50,000 contiguous square feet (4645 m²) of *gross floor area*, exclusive of common space of the non-residential occupancies, then the space designated for non-residential occupancies shall be designed and constructed to meet or exceed one or more of the applicable LEED standards listed in Section 1301.1.3 at the Certified Level. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the *code official* to verify compliance with this section.

1301.1.1.6 Interior tenant fit-out alteration in a District-Owned or a District Instrumentality-Owned Project. Where a *project* in a District-owned or a District instrumentality-owned building involves the alteration of 30,000 square feet (2787 m²) or more of *gross floor area* for a single non-residential occupancy, exclusive of common space, for which space a certificate of occupancy for non-residential use has been or would be issued, and the scope of work is equivalent to Level 3 *alterations* as defined in the *Existing Building Code*, then the portion of the *project* subject to alteration shall be designed and constructed to meet or exceed one or more of the LEED standards listed in Section 1301.1.3 at the Certified Level. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the *code official* to verify compliance with this section.

1301.1.1.7 Interior tenant fit-out in new construction. Where a *project* in a

District-owned or a District-instrumentality-owned building involves the fit-out for tenant occupancy of shell space or spaces of 30,000 square feet (2787 m²) or more of *gross floor area* for a single non-residential occupancy, exclusive of common space, for which space a certificate of occupancy would be issued, the portion of the *project* subject to tenant fit-out shall be designed and constructed to meet or exceed one or more of the applicable LEED standards listed in Section 1301.1.3 at the Certified Level. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the *code official* to verify compliance with this section.

1301.1.2 Privately-owned projects. This section shall apply to a *project* that is privately-owned and is either new construction or an alteration where the scope of work is equivalent to Level 3 *alterations* as defined in the *Existing Building Code*. This category includes a *project* involving improved and unimproved real property acquired by sale from the District or a District instrumentality to a private entity, unimproved real property leased from the District or a District instrumentality to a private entity, and any *project* where less than 15 percent of the *project's* total *project cost* is *District financed* or *District instrumentality financed*.

1301.1.2.1 Energy Star Target Finder Tool. Each *project* of 50,000 square feet (4645 m²) or more of *gross floor area* shall estimate the *project's* energy performance using the Energy Star Target Finder Tool and submit this data to the *code official* with the permit application.

Exception: Building occupancies for which the Energy Star tool is not available.

1301.1.2.2 Privately-owned non-residential projects. In addition to compliance with Section 1301.1.2.1, each non-residential *project* of 50,000 square feet (4645 m²) or more of *gross floor area* shall be designed and constructed to meet or exceed one or more of the LEED standards listed in Section 1301.1.3 at the Certified Level. A “non-residential *project*” shall mean a *project* where 50 percent or more of the *gross floor area*, including allocable area of common space, is occupied or intended for occupancy for uses that are not Residential Group R occupancies. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the *code official* to verify compliance with this section.

1301.1.2.3 Interior construction of mixed use space in a Residential Group R project. Where Residential Group R occupancies exceed 50 percent of the *gross floor area* of the *project*, including allocable area of common space, and the *project* contains at least 50,000 contiguous square feet (4645 m²) of *gross floor area*, exclusive of common space of the non-residential occupancies, then the space designated for non-residential occupancies shall be designed and constructed to meet or exceed one or more of the applicable LEED standards listed in Section 1301.1.3 at the Certified Level. The applicant shall provide plans

and supporting documents in sufficient detail and clarity to enable the *code official* to verify compliance with this section.

1301.1.3 LEED standards. Applicants, in consultation with the U.S. Green Building Council (USGBC) listed in Chapter 35, shall utilize one or more of the following LEED standards as appropriate for the type of *project* or occupancy:

1. New Construction & Major Renovations
2. Commercial Interiors
3. Core & Shell
4. Healthcare
5. Retail: Commercial Interiors
6. Retail: New Construction & Major Renovations
7. Schools

1301.1.3.1 LEED version. An applicant for permits subject to Sections 1301.1.1.2 through 1301.1.1.7 or Sections 1301.1.2.2 through 1301.1.2.3 shall register the *project* with the USGBC or shall meet the LEED requirements without USGBC registration. If the applicant chooses to meet the LEED requirements without USGBC registration, the earliest version of the appropriate LEED standard that shall be used is the version with USGBC open registration in effect one year prior to whichever of the following interactions of the applicant with the District of Columbia came first:

1. The approval of a land disposition agreement;
2. The submission of an application to the Board of Zoning Adjustment for a variance or special exception relief;
3. The submission of an application to the Zoning Commission for a planned unit development or other approval requiring Zoning Commission action;
4. The submission of an application to the Historic Preservation Review Board or Mayor's Agent for the Historic Preservation Review Board;
5. The filing of a building permit application for the primary scope of work of the *project*, which shall not include applications for raze, sheeting and shoring, foundation or specialty, miscellaneous or

supplemental permits; or

6. Other substantial land-use interactions with the District as determined by the *code official*.

1301.1.4 Verification. Evidence that a *project* meets or exceeds the LEED standard required by Sections 1301.1.1.2 through 1301.1.1.7 or Sections 1301.1.2.2 through 1301.1.2.3 shall be submitted to the *code official* within 24 calendar months after the *project's* receipt of the first certificate of occupancy issued for occupiable space in a *story above grade plane*.

1301.1.4.1 Evidence required. For purposes of this section, verification of compliance shall be established by the following:

1. A certification by the USGBC that the *project* meets or exceeds the applicable LEED standard required by Sections 1301.1.1.2 through 1301.1.1.7 or Sections 1301.1.2.2 through 1301.1.2.3; or
2. A determination by the *code official* that the *project* meets or exceeds the LEED standard required by Sections 1301.1.1.2 through 1301.1.1.7 or Sections 1301.1.2.2 through 1301.1.2.3; or
3. A certification by an *approved agency* or *approved source* that the *project* meets or exceeds the LEED standard required by Sections 1301.1.1.2 through 1301.1.1.7 or Sections 1301.1.2.2 through 1301.1.2.3.

1301.1.4.2 Extension. The *code official*, for good cause and upon written request, is authorized to extend the period for verification of compliance for up to three consecutive one year periods.

1301.1.5 Financial security. Before issuance of the first certificate of occupancy for occupiable space in a *story above grade plane* of a privately-owned *project* subject to the provisions of Sections 1301.1.2.2 through 1301.1.2.3, the applicant shall provide to the *code official* evidence of financial security to cover the amount of fine that would be imposed under the Green Building Act for non-compliance with the provisions of Sections 1301.1.2.2 through 1301.1.2.3.

1301.1.5.1 Amount of financial security. The amount of the potential fine on a *project*, and thus the amount of financial security, shall be as follows:

1. \$7.50 per square foot of *gross floor area* of construction if the *project* is less than 100,000 square feet (9290 m²) of *gross floor area* of the *project*.
2. \$10.00 per square foot of *gross floor area* of construction if the

project is equal to or greater than 100,000 square feet (9290 m²) of *gross floor area* of the *project*.

The amount of a fine for non-compliance under this sub-section, and thus the amount of security, shall not exceed \$3,000,000. When applying the provisions of this Section 1301.1.5 to interior construction of a mixed use space in a Residential Group R *project* covered by Section 1301.1.2.3, the *gross floor area* of the *project* shall be deemed to mean the contiguous *gross floor area*, exclusive of common space, of the non-residential occupancies. The amount of this fine shall be subject to modification based upon the form of security for performance as provided for in Sections 1301.1.5.2.1 through 1301.1.5.2.3.

1301.1.5.2 Security for performance/form of delivery. The financial security requirement shall be met through one of the following four methods.

1301.1.5.2.1 Cash. If this option is elected, cash shall be deposited in an escrow account in a financial institution in the District in the names of the applicant and the District. A copy of a binding escrow agreement of the financial institution shall be submitted to the *code official* in a form satisfactory to the Office of the Attorney General, which provides that the funds can be released upon direction of the District where remitted pursuant to Section 1301.1.6. If cash is used as the financial security, the amount of the financial security posted shall be discounted by 20 percent.

1301.1.5.2.2 Irrevocable letter of credit. If this option is elected, an irrevocable letter of credit benefitting the District shall be submitted to the *code official* in a form satisfactory to the Office of the Attorney General from a financial institution authorized to do business in the District. The irrevocable letter of credit, issued by the financial institution, shall comply with applicable regulatory requirements. If an irrevocable letter of credit is used as the financial security, the amount of the financial security posted shall be discounted by 20 percent.

1301.1.5.2.3 Bond. If this option is elected, a bond benefitting the District, which complies with applicable regulatory requirements, shall be submitted to the *code official* in a form satisfactory to the Office of the Attorney General. If a bond is used as the financial security, the amount of the financial security posted shall be discounted by 20 percent.

1301.1.5.2.4 Binding pledge. If this option is elected, a binding pledge shall be submitted to the *code official* in a form approved by the Office of the Attorney General. The binding pledge shall be recorded as a covenant in the land records of the District against legal title to the land in which the *project* is located and shall bind the *owner* and any successors in title to pay any fines levied under Section 1301.1.6.1.

1301.1.6 Enforcement. Where a *project* fails to provide pursuant to Section 1301.1.4 satisfactory verification of the *project's* compliance with the requirements of Sections 1301.1.2.2 through 1301.1.2.3 within the prescribed time frame and any extensions thereof granted by the *code official* pursuant to Section 1301.1.4.2, the *code official* is authorized to draw down on the financial security submitted as cash, irrevocable letter of credit or bond, by submission by the District of the original security documentation, provided that where a binding pledge has been provided, to enforce such pledge agreement pursuant to its terms. The amounts thus drawn down from the financial security shall be deposited in the Green Building Fund set up under the Green Building Act.

1301.1.6.1 Financial security drawdowns. If a *project* fails to provide satisfactory verification of compliance, the drawdowns of the financial security in the form of cash, irrevocable letter of credit, or bond shall be as follows:

1. Failure to provide proof of compliance within 24 calendar months after the *project's* receipt of the first certificate of occupancy for occupiable space in a *story above grade plane*: 100 percent drawdown; or
2. Miss up to three LEED points in the applicable LEED standard: 50 percent drawdown; or
3. Miss more than three LEED points in the applicable LEED standard: 100 percent drawdown.

1301.1.6.2 Binding pledge fines. If a *project* fails to provide satisfactory verification of compliance within 24 calendar months after the *project's* receipt of the first certificate of occupancy for occupiable space in a *story above grade plane* and a binding pledge is used as the form of financial security, one or more fines shall be due and payable per the amounts set out in 1301.1.5.1 as may be modified pursuant to Section 1301.1.6.1.

1301.1.7 Release of financial security. If, within 24 calendar months following the issuance of the first certificate of occupancy for occupiable space in a *story above grade plane*, the *project* fulfills the requirements of Section 1301.1.4, the financial security shall be released by the District of Columbia and, as applicable, returned.

1301.1.8 Remediation. If within 24 months after receipt of the first certificate of occupancy for occupiable space in a *story above grade plane*, or within the extension periods granted to the *project* per Section 1301.1.4.2, the *project* does not meet the requirements of Section 1301.1.4, the *project owner* shall, at its own cost, design and renovate the *project* to meet or exceed the current edition of the LEED standard for Existing Buildings: Operations & Maintenance at the Certified Level. The *project owner* shall submit sufficient data to the *code official* to verify compliance with this section. The *project owner* shall provide to the *code official* certification, by the *owner's* registered

design professional or an approved agency or an approved source that the project complies with this section.

1301.1.9 Additional fine. If within 48 calendar months after receipt of the first certificate of occupancy for occupiable space in a *story above grade plane*, a *project*, subject to Section 1301.1.3 fails to provide satisfactory verification in accordance with the provisions of Section 1301.1.4 or Section 1301.1.8, the *project owner* shall pay a monthly fine of \$0.02 per square foot of *gross floor area* of the *project* to the District of Columbia. The fine shall be a civil penalty, due and payable annually. The fine shall be in addition to any fines issued under Section 1301.1.6 and shall not be subject to the \$3,000,000 limit under Section 1301.1.5.1.

1301.1.10 Appeals. Determinations made by the *code official* under Sections 1301.1.1 through 1301.1.9 may be appealed pursuant to Section 112 of the *Building Code*.

1301.1.11 Exemptions. A request for an exemption from application of the Green Building Act to any *project* may be made to DDOE pursuant to the provisions of Chapter 35 (Green Building Requirements) of DCMR Title 20 (Environment).

Chapter 35A (Referenced Standards) is amended as follows:

Insert a new referenced standard to read as follows:

Enterprise Community Partners, Inc.
10 G Street, NE, Suite 450
Washington, D.C. 20002

Standard reference number	Title	Referenced in code section number
2011	Enterprise Green Communities On-Line Certification	1301.1.1.4

Insert a new referenced standard under subheading “US EPA” to read as follows:

US EPA Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Standard reference number	Title	Referenced in code section number
ENERGY STAR	Energy Star Target Finder Tool	1301.1.2.1

Strike the subheading “USGBC” in its entirety and insert a new subheading “USGBC” in its

place to read as follows:

USGBC U.S. Green Building Council
2101 L Street, NW, Suite 500
Washington, D.C. 20037

Standard reference number	Title	Referenced in code section number
LEED-NC 2009	New Construction & Major Renovations	1301.1.3
LEED-CI 2009	Commercial Interiors	1301.1.3
LEED-CS 2009	Core & Shell	1301.1.3
LEED 2009	Healthcare	1301.1.3
LEED 2009	Retail: Commercial Interiors	1301.1.3
LEED 2009	Retail: New Construction & Major Renovations	1301.1.3
LEED 2009	Schools	1301.1.3
LEED-EB 2009	Existing Buildings: Operations & Maintenance	1301.1.8

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-054
March 7, 2013

SUBJECT: Delegation of Authority to the Chief Risk Officer to Settle Certain Pre-Litigation Claims either Against or on Behalf of the District, to Procure Insurance, to Utilize Alternative Risk Financing Strategies, and to Settle Claims and Lawsuits Filed Against Members of the Medical Liability Captive Insurance Agency

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by sections 422(1) and (6) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code §§ 1-204.22(1) and (6) (2012 Supp.), and in accordance with sections 1 and 5 of An Act Authorizing the Commissioners of the District of Columbia to settle claims and disputes against the District of Columbia, approved February 11, 1929 (45 Stat. 1160, D.C. Official Code §§ 2-402 and 2-406) (2011 Repl.), section 6(n) of Reorganization Plan No. 1 of 2003, effective December 15, 2003 (50 DCR 6504, amended 50 DCR 7298), and the District of Columbia Medical Liability Captive Insurance Agency Establishment Act of 2008, effective July 18, 2008, (D.C. Law 17-196, D.C. Official Code § 1-307.81 *et seq.*) (2012 Supp.), it is hereby **ORDERED** that:

1. The Chief Risk Officer of the District of Columbia ("CRO") is delegated the authority vested in the Mayor to settle pre-litigation claims either against or, under the limited circumstances described in this paragraph, on behalf of the District. For the purposes of this order, the term "pre-litigation claims" means: (a) any claim against the District, not the subject of civil or administrative litigation, whenever the claim arises out of the alleged negligence or wrongful act, either of commission or omission, of any officer or employee of the District for whose alleged negligence or acts the District, if a private individual, would be liable *prima facie* to respond in damages, irrespective of whether such alleged negligence occurred or such acts were done in the performance of a municipal or governmental function of said District, and (b) any claim, not the subject of civil or administrative litigation, on behalf of the District, for subrogation, contribution, or indemnity that arises after a claim against the District as described in subparagraph (a). However, this delegation of authority does not authorize the CRO to settle, release, waive, or extinguish claims or defenses that the District may have arising from the same transaction, which generated the pre-litigation


claim, including any claim or defense that would be within the jurisdiction or authority of the Office of the Attorney General for the District of Columbia ("OAG") to assert, including but not limited to, false claims, contract claims, counter-claims or delinquent debts referred to the OAG for civil or administrative collection or enforcement actions.

2. The CRO may, in his or her sole discretion, settle pre-litigation claims in an amount up to and including three hundred thousand dollars and zero cents (\$300,000.00), and after consultation with the Attorney General, or his or her designee, settle pre-litigation claims in an amount up to and including five hundred thousand dollars and zero cents (\$500,000.00).
3. Pursuant to section 6(n) of Reorganization Plan No. 1 of 2003, the CRO is delegated authority to procure insurance and utilize alternative risk financing strategies, as necessary and pursuant to an authorized appropriation, for the benefit of the District to compensate for large liabilities and catastrophic exposure to risk including, but not limited to, tort settlements and judgments, contractual settlements and judgments, and property losses.
4. Pursuant to his or her jurisdiction arising under D.C. Official Code § 1-307.81 *et seq.*, the CRO is authorized to settle claims and lawsuits filed against members of the Medical Liability Captive Insurance Agency in an amount up to and including three hundred thousand dollars and zero cents (\$300,000.00), and after consultation with the Attorney General, or his or her designee, settle such claims and lawsuits in an amount up to and including five hundred thousand dollars and zero cents (\$500,000.00).
5. The authority delegated by the Mayor to the CRO herein may be further delegated to subordinates under the personnel authority of the CRO.
6. Nothing in this order shall be construed as requiring the OAG to obtain CRO approval of any settlement of any pre-litigation claim that arises within the jurisdiction or authority of the OAG, nor shall anything in this Order be construed to affect any authority delegated to the Attorney General pursuant to Part III. A. 3. of reorganization Order 50 (June 26, 1953) as amended.
7. When the Attorney General settles any pre-litigation claim, he or she or his or her designee shall provide notice to the CRO of any such settlement.
8. This Order supersedes any provision of any outstanding Mayor's Order or Commissioner's Order to the extent that any such provision is inconsistent with the provisions of this Order.

9. **EFFECTIVE DATE:** This Order shall become effective immediately and shall apply prospectively and retroactively to all settlement and subrogation assignment agreements entered into by the Chief Risk Officer on or after December 15, 2003.



VINCENT C. GRAY
MAYOR

ATTEST: 

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-055
March 7, 2013

SUBJECT: Appointments – District of Columbia Developmental Disabilities Fatality Review Committee

ORIGINATING AGENCY: Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) and (11) (2012 Supp.), and in accordance with Mayor's Order 2009-225, dated December 22, 2009, it is hereby **ORDERED** that:

1. **STEVEN POWE** and **VICTOR ROBINSON** are appointed to the District of Columbia Developmental Disabilities Fatality Review Committee ("Committee"), as public members and members of the disability community, for a term to end two (2) years from the effective date of this order.
2. **PROFESSOR MARIANNE VAIL** is appointed to the Committee, as a public member and a clinician with experience in the evaluation and treatment of persons with intellectual and developmental disabilities, for a term to end two (2) years from the effective date of this order.
3. **DR. MICHAELA L. ZAJICEK-FARBER** is appointed to the Committee, as a public member and a faculty member from a school of Social Work at a college or university located in the District, for a term to end three (3) years from the effective date of this order.
4. **NATHANIEL FEINGOLD** and **LINDSAY WILKES** are appointed to the Committee, as public members and members of the disability community, for a term to end three (3) years from the effective date of this order.

5. EFFECTIVE DATE: This Order shall become effective immediately.



VINCENT C. GRAY
MAYOR

ATTEST: 

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF MEETING
LICENSE CANCELLATIONS**

**WEDNESDAY, MARCH 20, 2013 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

1. Review of Letter from Winebow, Inc. (Wholesaler License No. 072284), attaching solicitor's license for Alison S. Marriott for cancellation, as Winebow no longer employs Ms. Marriott; Solicitor's Permit No. 089608.

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF MEETING
CHANGE OF HOURS AGENDA**

**WEDNESDAY, MARCH 20, 2013 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

1. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales. Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Monday through Saturday 9am-10pm. Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Sunday 7am-12pm, Monday through Saturday 7am-12am. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 8C. SMD 8C05. *Son's Spar Liquors LLC T/A Spar's Liquors*, 3916 South Capitol Street, SE. Retailer's Class A, License No.: 080850.
2. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales. Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Monday 9:30 am – 9:00 pm; Tuesday through Saturday 9:30 am-10:00 pm. Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Sunday 10:00 am-8:00 pm; Monday through Thursday 9:00 am – 10:00 p.m.; Friday and Saturday 9:00 am – 11:00 pm. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No conflict with Settlement Agreement. ANC 4B. SMD 4B01. *Cork & Bottle Inc. T/A Cork & Bottle*, 7421 Georgia Ave., NW. Retailer's Class A, License No.: 089012.
3. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales. Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Monday through Thursday 10:00 am – 9:00 p.m.; Friday and Saturday 10:00 am – 10:00 pm. Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Sunday 10:00 am – 10:00 pm; Monday through Thursday 10:00 am – 10:00 pm; Friday and Saturday: 10:00 am – 12:00 am. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 4D. SMD 4D02. *Northwest Liquors, Inc. T/A Northwest Liquors*, 300 Kennedy St., NW. Retailer's Class A, License No.: 060270.
4. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales. Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Monday through Thursday 9:00 am – 9:00 p.m.; Friday and Saturday 9:00 am – 10:00 pm. Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Sunday 7:00 am – 12:00 am; Monday through Saturday: 7:00 am – 12:00 am. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No

Settlement Agreement. ANC 5B. SMD 5B04. *Mohabat, Inc. T/A Good Ole Reliable Liquors*, 1513 Rhode Island Ave., NE. Retailer's Class A, License No.: 060116.

5. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales (Sunday Hours Only). Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Monday through Thursday: 9:00 am – 9:00 pm; Friday and Saturday 9:00 am -10:00 pm. Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Sunday 10:00 am – 9:00 pm; Monday through Thursday: 9:00 am – 9:00 pm; Friday and Saturday 9:00 am -10:00 pm. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 8D. SMD 8D07. *SO Liquor T/A Al's Liquor*, 4009 South Capitol St., S.W., Retailer's Class A, License No.: 074661.
6. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales. Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Monday through Saturday 9:30 am – 9:00 p.m. Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Sunday 7:00 am – 12:00 am; Monday through Saturday: 7:00 am – 12:00 am. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 5A. SMD 5A11. *Jas & Jassi Inc. T/A Big Valu Liquor*, 3174 Bladensburg Rd., NE. Retailer's Class A, License No.: 026228.
7. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales (Sunday Hours Only). Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Monday through Saturday 9:00 am -12:00 am. Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Sunday 9:00 am – 12:00 am; Monday through Saturday 9:00 am -12:00 am. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 1B. SMD 1B12. *Bestway Liquor*, 2011-14th St., NW. Retailer's Class A, License No.: 014405.
8. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales. Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Monday through Thursday 9:00 am – 9:00 p.m.; Friday and Saturday 9:00 am – 10:00 pm. Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Sunday 9:00 am – 9:00 pm; Monday through Saturday: 9:00 am – 12:00 am. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 6D. SMD 6D06. *RS Liquors T/A Cap Liquors*, 1301 South Capitol Street, SW. Retailer's Class A, License No.: 024522.
9. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales (Sunday Hours Only). Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Monday through Saturday 9:00 am -9:00 am. Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Sunday 9:00 am – 9:00 pm; Monday through Saturday 9:00 am -9:00 pm. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement.

ANC 3G. SMD 3G06. **BNI Inc. T/A Chevy Chase Wine & Spirits**, 5544 Connecticut Ave., NW. Retailer's Class A, License No.: 009582.

10. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales (Sunday Hours Only). Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Monday through Thursday 7:00 am – 9:00 p.m.; Friday and Saturday 7:00 am – 10:00 pm. Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Sunday 7:00 am – 9:00 pm; Monday through Saturday: No Change. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 3C. SMD 3C04. **Cleveland Park Liquors**, 3423 Connecticut Ave., NW. Retailer's Class A, License No.: 016969.
11. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales. Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Monday through Saturday 9:00 am – 9:00 pm. Proposed Hours of Operation: Sunday 10:00 am – 9:00 pm; Monday through Thursday: 9:00 am – 9:00 pm; Friday 9:00 am – 10:00 pm; Saturday: 10:00 am – 10:00 pm. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 8C. SMD 8C02. **Sanghera Corporation T/A King Avenue Liquors**, 2757 Martin Luther King Jr., Ave., SE. Retailer's Class A, License No.: 060177.
12. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales (Sunday Hours Only). Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Monday through Thursday 9:00 am – 10:00 p.m.; Friday and Saturday 9:00 am – 11:00 pm. Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Sunday 9:00 am – 9:00 pm; Monday through Saturday: No Change. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No conflict with Settlement Agreement. ANC 8C. SMD 8C02. **D.J. Jackson, Inc. T/A Mart Liquor** 2931 Martin Luther King Jr., Ave., SE. Retailer's Class A, License No.: 090154.
13. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales (Sunday Hours Only). Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Monday through Thursday 9:30 am – 9:00 p.m.; Friday and Saturday 9:30 am – 10:00 pm. Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Sunday 9:30 am – 12:00 am; Monday through Saturday: No Change. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No conflict with Settlement Agreement. ANC 8D. SMD 8D07. **JCC Inc T/A Meade Wine & Liquors** 3919 South Capitol St., SW. Retailer's Class A, License No.: 086593.
14. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales (Sunday Hours Only). Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Monday through Saturday 9:00 am – 12:00 am. Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Sunday 10:00 am – 7:00 pm; Monday through Saturday: No Change. No pending investigative matters.

No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 2E. SMD 2E05. **Gabriel Incorporated T/A Potomac Wines** 3100 M Street, NW. Retailer's Class A, License No.: 001926.

15. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales. Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Monday through Saturday 9:00 am – 10:00 pm. Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Sunday 9:00 am – 9:00 pm; Monday through Thursday: 9:00 am – 10:00 pm; Friday and Saturday: 9:00 am – 12:00 am. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 5E. SMD 5E10. **Sosnick's Liquors**, 2318 4th Street, NE. Retailer's Class A, License No.: 072301.
16. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales (Sunday Hours Only). Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Monday through Saturday 9:00 am – 12:00 am. Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Sunday 9:00 am – 12:00 am; Monday through Saturday: No Change. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 5D. SMD 5D05. **Tae Kwang, Inc. T/A Sylvia's Liquors**, 1818 Benning Road, NE. Retailer's Class A, License No.: 077726.
17. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales. Approved Hours of Operation: Sunday 8:00 am – 9:00 pm; Monday through Saturday 8:00 am – 10:00 p.m.; Approved Hours of Alcoholic Beverage Sales/Service: Sunday 10:00 am – 7:00 p.m., Monday through Saturday 9:00 am – 9:00 pm; Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Sunday through Saturday 8:00 am – 10:00 pm. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 1B. SMD 1B04. **Yes Organic Union Row Inc. T/A Yes Organic Market**, 2123 14th Street, NW. Retailer's Class B, License No.: 079023.
18. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales. Approved Hours of Operation: Sunday 8:00 am – 9:00 pm; Monday through Saturday 7:00 am – 10:00 p.m.; Approved Hours of Alcoholic Beverage Sales/Service: Sunday 10:00 am – 7:00 p.m., Monday through Saturday 9:00 am – 9:00 pm; Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service: Sunday through Saturday 7:00 am – 10:00 pm. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 4C. SMD 4C07. **Yes Organic Petworth Inc. T/A Yes Organic Market**, 4100 Georgia Ave., NW. Retailer's Class B, License No.: 081925.
19. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales. Approved Hours of Operation: Monday through Saturday 8:00 am – 12:00 am; Approved Hours of Alcoholic Beverage Sales/Service: Monday through Saturday 9:00 am – 12:00 am; Proposed Hours of Operation: Sunday 9:00 am – 10:00 pm;

Monday through Saturday 8:00 am – 12:00 am; Proposed Hours of Alcoholic Beverage Sales/Service: Sunday 9:00 a.m. – 10:00 pm, Monday through Saturday 9:00 am – 12:00 am. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No Settlement Agreement. ANC 2A. SMD 2A03. *Hwan Pyo Eun T/A West End Market*, 2424 Pennsylvania Ave., NW. Retailer's Class A, License No.: 074663.

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF MEETING
INVESTIGATIVE AGENDA**

**WEDNESDAY, MARCH 20 2013
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

On March 20, 2013 at 4:00 pm, the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed “to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations.”

1. Case#13-CMP-00001 Jimmy Valentine's Lonely Hearts Club, 1103 BLADENSBURG RD NE Retailer C Tavern, License#: ABRA-076330

2. Case#13-CMP-00082 Queen Makeda, 1917 9TH ST NW Retailer C Restaurant, License#: ABRA-060510

3. Case#12-251-00372 Stetson's, 1610 U ST NW Retailer C Tavern, License#: ABRA-060455

4. Case#13-CMP-00094 Taste, 1812 Hamlin ST NE Retailer C Tavern, License#: ABRA-086011

5. Case#13-251-00004 Cafe Asia, 1720 I ST NW Retailer C Nightclub, License#: ABRA-086035

6. Case#13-251-00008 DC Shenanigans, 2450 18th ST NW Retailer C Tavern, License#: ABRA-088119

7. Case#13-CMP-00095 DRAFTING TABLE, 1529 14TH ST NW 201 Retailer C Restaurant, License#: ABRA-089190

8. Case#13-CC-00005 LUCKY 7 LIQUOR, 2314 RHODE ISLAND AVE NE Retailer A Retail - Liquor Store, License#: ABRA-090270

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
AGENDA

WEDNESDAY, MARCH 20, 2013 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales. ***Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service:*** Sunday through Thursday 11:30 am - 1:00 am; Friday and Saturday 11:00 am – 1:00 am. ***Proposed Hours of Operation and Hours of Alcoholic Beverage Sales/Service:*** Sunday through Thursday 11:00 am - 1:00 am; Friday and Saturday 11:00 am – 2:45 am. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No conflict with approved Settlement Agreement. ANC 4C. SMD 4C07. ***El Torogoz Restaurant***, 4231 9th Street NW Retailer CR01, Lic.#: 72165.

2. Review of Change of Hours Application to change Hours of Operation and Hours of Alcoholic Beverage Sales. ***Approved Hours of Operation and Hours of Alcoholic Beverage Sales/Service:*** Sunday through Saturday 11:00 am – 3:00 am. ***Proposed Hours of Operation:*** 11:00 am – 4:00 am ***Proposed Hours of Alcoholic Beverage Sales/Service:*** No Change. No pending investigative matters. No pending enforcement matters. Outstanding fines/citations: Case No. 12-251-00064, Simple Assault: On 1/9/13, Board ordered 2-day suspension stayed for one year and \$2,000 fine. No Settlement Agreement. ANC 5C. SMD 5C07. ***Lace***, 2214 Rhode Island Avenue NE Retailer CT01, Lic.#: 76369.

3. Review of Manager’s Application: Cesar A. Verela Alva.**

4. Review of Manager’s Application: Jacob B. Bustin. **

5. Review of Correspondence from Elwyn Ferris dated February 20, 2013 concerning requested amendments to Settlement Agreement. ***Policy***, 1904 14th Street NW Retailer CR03, Lic.#: 76804.

6. Review of Request from Washington Wholesale Liquor Company (ABRA License No. 060518) for permission to give retailers certain items whose value will not exceed \$500. ***Washington Wholesale Liquor Company, LLC***, 2800 V Street NE Wholesaler A, Lic.#: 60518.

Board's Agenda – March 20, 2013 - Page 2

7. Review of Request for Entertainment Endorsement. **Approved Hours of Operation:** Sunday through Thursday 10:00 am – 2:00 am, Friday and Saturday 10:00 am – 3:00 a.m., **Approved Hours of Alcoholic Beverage Sales/Service:** Sunday through Thursday 10:00 am - 1:45 am; Friday and Saturday 10:00 am – 2:45 am. **Proposed Hours of Live Entertainment:** Sunday through Thursday 6:00 pm - 2:00 am; Friday and Saturday 6:00 p.m. – 3:00 am. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. No conflict with approved Settlement Agreement, as amended. ANC Correspondence dated November 30, 2012 concerning compliance with Settlement Agreement; Two Show Cause Matters pending. ANC 4C. SMD 4C07. **Twelve Restaurant & Lounge**, 1123 H Street NE Retailer CT03, Lic.#: 76366.

8. Review of letter, dated March 5, 2013, from Christopher Nwaeze requesting that the Board reimburse the \$2,334.00 license fee because he withdrew his application for Hush Restaurant and Lounge. **Hush Restaurant and Lounge**, 2121 New York Avenue NE Retailer CT03, Lic.#: 89332.

9. Review of Petition to Terminate Settlement Agreement, dated March 5, 2013, from Habana Village. **Habana Village**, 1834 Columbia Road NW Retailer CR02, Lic.#: 24197.*

10. Review of Settlement Agreement, dated February 7, 2013, between Kapnos and ANC 1B. **Kapnos**, 2201 14th Street NW Retailer CR03, Lic.#: 91148.*

*** In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

**** In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, this portion of the meeting will be closed to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations. The Board's vote will be held in an open session, and the public is permitted to attend.**

DISTRICT OF COLUMBIA CHILD SUPPORT GUIDELINE COMMISSION

NOTICE OF A PUBLIC MEETING

The District of Columbia's Child Support Guideline Commission's meeting

Thursday, March 28, 2013, at 8:30 A.M.
D.C. Office of the Attorney General, Child Support Services Division
441 4th Street, NW, Ste. 550N
Conference Room A
Washington, D.C. 20001

The District of Columbia Child Support Guidelines Commission (Commission) announces meeting in which it will discuss proposed changes to the District's Child Support Guideline (Guideline). The Commission's mission is to review the Guideline annually and to provide the Mayor with recommendations for improving the efficiency and effectiveness of the Guideline. In order to achieve its objective, and to ensure the recommendations the Commission provides to the Mayor take into account the public's concerns, it invites the public to attend its meeting.

Persons wishing to review the Child Support Guideline prior to the public meeting, may access it online by visiting the District of Columbia's website at www.dc.gov.

Individuals who wish to attend should contact: Cory Chandler, Chairperson, Child Support Guideline Commission, at 202-724-7835, or by e-mail at cory.chandler@dc.gov by Tuesday, March 26, 2013. E-mail submissions should include the full name, title, and affiliation, if applicable, of the person(s) wishing to attend. Persons wishing to comment should send nine (9) copies of their written commentary to the Office of the Attorney General for the District of Columbia at the address below.

Individuals who wish to submit their comments as part of the official record should send copies of written statements no later than 4:00 p.m., Wednesday, March 27, 2013 to:

Cory Chandler, Deputy Attorney General
Office of the Attorney General for the District of Columbia
Family Services Division
200 I Street, S.E.
4th Floor
Washington, D.C. 20003

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BOARD FOR THE CONDEMNATION OF INSANITARY BUILDINGS**

NOTICE OF SCHEDULED MEETING

The Board for the Condemnation of Insanitary Buildings will be holding a scheduled meeting on Wednesday, March 27, 2013 at 10:40 am. The meeting will be held at 1100 4th Street, SW, room E4302, Washington, D.C. 20024.

Draft board meeting agendas are available on the website of the Department of Consumer and Regulatory Affairs at dcra.dc.gov, by clicking on the “Board for the Condemnation of Insanitary Buildings” tab on the main page.

For inquiries and meeting agenda, please call the Board for the Condemnation of Insanitary Buildings at 202-442-4332 or send an email to vacantproperty@dc.gov.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION**

SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS

April 2013

CONTACT PERSON	BOARDS AND COMMISSIONS	DATE	TIME/ LOCATION
Greta Cordeiro	Board of Accountancy	RECESS	8:30 am-12:00pm
Leon Lewis	Board of Appraisers	17	8:30 am-4:00 pm
Leon Lewis	Board Architects and Interior Designers	RECESS	8:30 am-1:00 pm
Sheldon Brown	Board of Barber and Cosmetology	1	10:00 am-2:00 pm
Sheldon Brown	Boxing and Wrestling Commission	9	7:00-pm-8:30 pm
Kevin Cyrus	Board of Funeral Directors	4	9:30am-2:00 pm
Greta Cordeiro	Board of Professional Engineering	25	9:30 am-1:30 pm
Leon Lewis	Real Estate Commission	9	8:30 am-1:00 pm
Pamela Hall	Board of Industrial Trades	16	1:00 pm-4:00 pm
	Asbestos Electrical Elevators Plumbing Refrigeration/Air Conditioning Steam and Other Operating Engineers		

Dates and Times are subject to change. All meetings are held at 1100 4th Street, SW, Suite E-300 A-B, Washington, D.C. 20024. Board agendas are available upon request.

For further information on this schedule, please call 202-442-4320.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**Race to the Top (RTTT)
Public and Charter School Expanded Growth Assessments Application****Notice of Funding Availability****Application Release Date: On or Before March 18, 2013****Application Submission Deadline: May 22, 2013****Purpose and Description:**

The Office of the State Superintendent of Education (OSSE) will issue an application as part of the Race to the Top (RTTT) grant to support local education agencies (LEAs) participating in Race to the Top in developing assessments that will be used to measure growth or growth measures for use in teacher and leader evaluations.

The assessments must be aligned to common core or next generation science standards where applicable and must address a priority grade or subject (see attached list). Applicants must also contribute the assessments/items/measures along with technical information about these assessments/items/measures to OSSE who will provide access to all LEAs. Assessments must be field tested.

Assessments or growth measures must meet all of the following requirements:

- address a priority grade or subject;
- have a sufficient N size to ensure validity;
- align to common core or next generation science standards where applicable;
- measure growth;
- be field tested;
- have the ability to provide assessment data electronically at the item-level; and

Applicants will be required to provide the following:

- performance data on the assessment or a commitment to providing performance data for newly developed assessment items including the p value;
- demonstration that comparable results will be generated from the assessment; and
- a plan for collecting and scoring data.

Funding Level:

Up to a total of \$500,000 in grant funds will be available for this grant competition. Eligible applicants may apply for up to \$500,000. Awards may be made in other increments and successful applicants may be awarded amounts less than requested.

Eligibility:

All Race to the Top LEAs are eligible to apply.

To receive more information, please contact:

David Hendrie
 Office of the State Superintendent of Education
 810 First Street, NE, 5th Floor
 Washington, D.C. 20002
 Telephone: (202) 481-3783
 Email: david.hendrie@dc.gov

A copy of the application will be available on OSSE’s website at www.osse.dc.gov.

Race to the Top Priority Grades and Subjects for Pilot Assessments	
	Common Core
Grade 2, Reading	X
Grade 2, Mathematics	X
Grade 3, Reading (a fall to spring growth measure)	X
Grade 3, Mathematics (a fall to spring growth measure)	X
Grade 9, English/Language Arts	X
Algebra I	X
Geometry	X
Grades K-1, Reading	X
Grades K-1, Mathematics	X
Grades 6-8, Social Studies	
Grades 6-8, Science	(will be developed)
Kindergarten readiness (end of pre-k or beginning of K)	

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Certification of Filling Vacancies

In Advisory Neighborhood Commissions

Pursuant to D.C. Official Code §1-309.06(D) If there is only one person qualified to fill the vacancy within the affected single-member district, the vacancy shall be deemed filled by the qualified person, the Board hereby certifies that the vacancy has been filled in the following single-member district by the individual listed below:

Jeffrey McCoy
Single-Member District 8C01

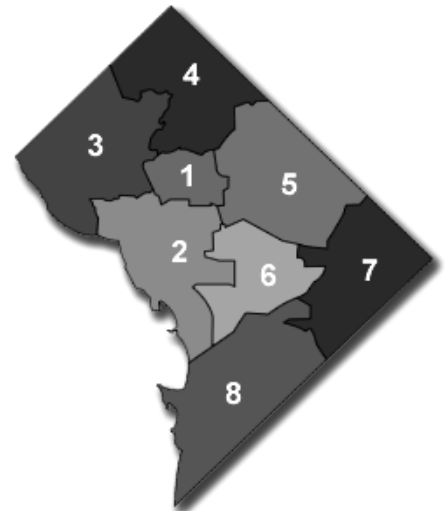
**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION SUMMARY
As Of FEBRUARY 28, 2013**

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	45,447	2,962	855	19	170	12,887	62,340
2	32,102	6,492	290	25	159	12,817	51,885
3	39,458	8,054	413	21	125	13,123	61,194
4	51,944	2,689	610	8	179	10,456	65,886
5	54,392	2,278	608	16	166	9,529	66,989
6	53,368	6,624	599	19	195	13,619	74,424
7	52,382	1,423	486	1	133	7,319	61,744
8	50,518	1,480	492	1	191	8,259	60,941
Totals	379,611	32,002	4,353	110	1,318	88,009	505,403
Percentage By Party	75.11%	6.33%	.86%	.02%	.26%	17.41%	100.00%

DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF
VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS
AS OF THE END OF FEBRUARY 28, 2013

COVERING CITY WIDE TOTALS BY:
WARD, PRECINCT AND PARTY

ONE JUDICIARY SQUARE
441 4TH STREET, NW SUITE 250N
WASHINGTON, DC 20001
(202) 727-2525
<http://www.dcboee.org>



**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 1 REGISTRATION SUMMARY
As Of FEBRUARY 28, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
20	1,486	42	14	1	11	244	1,798
22	3,704	306	32	2	8	1,025	5,077
23	2,838	168	66	4	6	786	3,868
24	2,631	262	37	0	10	866	3,806
25	4,194	480	78	1	7	1,389	6,149
35	3,681	241	73	0	13	1,169	5,177
36	4,520	297	81	2	17	1,263	6,180
37	3,301	161	57	0	8	787	4,314
38	2,818	142	62	1	9	778	3,810
39	4,299	226	108	3	18	1,121	5,775
40	3,978	233	106	1	26	1,229	5,573
41	3,429	210	69	2	20	1,118	4,848
42	1,877	65	33	2	7	519	2,503
43	1,741	74	26	0	4	378	2,223
137	950	55	13	0	6	215	1,239
TOTALS	45,447	2,962	855	19	170	12,887	62,340

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 2 REGISTRATION SUMMARY
As Of FEBRUARY 28, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
2	720	171	7	0	11	469	1,378
3	1,496	450	17	1	13	760	2,737
4	1,717	489	9	1	8	873	3,097
5	2,288	784	23	1	10	959	4,065
6	2,743	1,169	29	2	23	1,737	5,703
13	1,411	303	7	1	1	529	2,252
14	3,137	490	28	1	12	1,178	4,846
15	3,339	362	27	6	15	1,054	4,803
16	3,900	441	38	4	11	1,142	5,536
17	5,026	711	49	6	33	1,771	7,596
129	2,071	372	15	1	5	852	3,316
141	2,541	277	28	0	9	771	3,626
143	1,713	473	13	1	8	722	2,930
TOTALS	32,102	6,492	290	25	159	12,817	51,885

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 3 REGISTRATION SUMMARY
As Of FEBRUARY 28, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
7	1,256	438	17	0	4	585	2,300
8	2,419	717	26	2	8	826	3,998
9	1,232	559	13	1	11	566	2,382
10	1,748	489	9	1	9	706	2,962
11	3,522	1,024	47	3	9	1,519	6,124
12	518	217	3	0	4	233	975
26	3,033	400	33	2	5	1,042	4,515
27	2,616	324	20	1	6	667	3,634
28	2,536	661	35	4	7	964	4,207
29	1,372	307	17	0	4	504	2,204
30	1,357	271	19	0	5	315	1,967
31	2,425	381	21	0	9	638	3,474
32	2,905	423	32	3	6	725	4,094
33	3,114	425	37	2	12	879	4,469
34	3,873	584	30	0	12	1,364	5,863
50	2,256	341	20	2	11	555	3,185
136	922	145	10	0		375	1,452
138	2,354	348	24	0	3	660	3,389

TOTALS	39,458	8,054	413	21	125	13,123	61,194
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**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 4 REGISTRATION SUMMARY
As Of FEBRUARY 28, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	2,306	82	45	2	7	478	2,920
46	3,195	93	33	0	15	660	3,996
47	3,215	174	37	2	16	851	4,295
48	3,000	155	37	0	11	653	3,856
49	925	51	17	0	6	225	1,224
51	3,381	623	27	0	10	731	4,772
52	1,368	270	6	0	2	274	1,920
53	1,274	79	20	0	4	311	1,688
54	2,500	115	39	0	7	553	3,214
55	2,753	85	39	1	14	525	3,417
56	3,368	106	37	0	14	791	4,316
57	2,835	98	36	0	17	540	3,526
58	2,524	68	24	1	3	442	3,062
59	2,834	100	38	1	8	454	3,435
60	2,363	100	23	0	8	748	3,242
61	1,820	63	19	0	3	335	2,240
62	3,405	155	30	0	5	418	4,013
63	3,597	135	65	0	14	699	4,510

64	2,439	65	18	1	6	373	2,902
65	2,842	72	20	0	9	395	3,338
Totals	51,944	2,689	610	8	179	10,456	65,886

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
As Of FEBRUARY 28, 2013

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	4,243	207	62	4	9	994	5,519
44	3,025	238	32	3	15	702	4,015
66	5,046	147	38	0	12	612	5,855
67	3,252	124	24	0	9	440	3,849
68	2,047	184	33	1	7	452	2,724
69	2,403	85	18	0	9	298	2,813
70	1,676	79	21	1	3	285	2,065
71	2,653	74	36	1	8	390	3,162
72	4,889	132	30	1	15	817	5,884
73	2,036	110	34	2	6	401	2,589
74	4,421	204	65	0	12	879	5,581
75	3,370	130	51	0	8	696	4,255
76	1,304	56	14	0	4	264	1,642
77	3,234	124	38	0	11	576	3,983
78	3,085	83	34	0	9	490	3,701

79	2,123	67	13	2	7	382	2,594
135	3,212	186	53	1	16	599	4,067
139	2,373	48	12	0	6	252	2,691
TOTALS	54,392	2,278	608	16	166	9,529	66,989

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 6 REGISTRATION SUMMARY
As Of FEBRUARY 28, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	4,403	407	50	1	21	1,118	6,000
18	4,236	257	48	0	15	926	5,482
21	1,150	55	18	0	5	269	1,497
81	5,153	373	53	1	20	1,035	6,635
82	2,687	281	26	0	11	595	3,600
83	3,944	425	41	1	13	977	5,401
84	2,085	463	31	2	9	654	3,244
85	2,916	583	28	2	9	880	4,418
86	2,383	290	28	1	7	542	3,251
87	2,954	236	29	1	12	609	3,841
88	2,259	338	22	0	7	564	3,190
89	2,733	763	32	2	7	893	4,430
90	1,719	287	13	2	6	528	2,555
91	4,287	385	48	2	19	1,032	5,773

127	4,201	298	56	1	13	954	5,523
128	2,279	216	32	1	10	669	3,207
130	876	370	10	0	3	354	1,613
131	1,688	421	15	2	4	589	2,719
142	1,415	176	19	0	4	431	2,045
TOTALS	53,368	6,624	599	19	195	13,619	74,424

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
As Of FEBRUARY 28, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,784	84	18	0	8	302	2,196
92	1,700	41	13	0	10	249	2,013
93	1,679	46	16	0	6	238	1,985
94	2,119	57	18	0	3	274	2,471
95	1,822	52	21	0		316	2,211
96	2,527	76	27	0	7	382	3,019
97	1,588	35	14	0	4	206	1,847
98	1,983	45	25	0	4	268	2,325
99	1,574	45	15	0	4	235	1,873
100	2,220	43	15	0	5	283	2,566
101	1,841	37	21	0	6	205	2,110
102	2,626	57	28	0	7	326	3,044
103	3,804	99	40	0	14	578	4,535
104	3,079	84	28	0	11	454	3,656
105	2,558	61	27	0	4	395	3,045

106	3,331	78	23	0	7	467	3,906
107	1,925	59	17	0	4	295	2,300
108	1,270	41	8	0	2	141	1,462
109	1,093	40	9	0	1	115	1,258
110	4,328	132	37	1	10	506	5,014
111	2,707	67	29	0	9	397	3,209
113	2,508	79	20	0	5	319	2,931
132	2,316	65	17	0	2	368	2,768
TOTALS	52,382	1,423	486	1	133	7,319	61,744

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
As Of FEBRUARY 28, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	2,370	70	13	0	7	336	2,796
114	3,468	114	32	0	22	573	4,209
115	3,294	79	28	1	11	684	4,097
116	4,349	118	44	0	18	688	5,217
117	2,092	56	18	0	10	327	2,503
118	2,961	84	35	0	10	455	3,545
119	3,177	132	50	0	12	601	3,972
120	2,082	47	22	0	6	352	2,509
121	3,623	89	39	0	14	595	4,360
122	2,088	52	21	0	6	314	2,481

123	2,674	136	28	0	14	506	3,358
124	2,927	68	18	0	5	407	3,425
125	5,078	130	46	0	16	798	6,068
126	4,160	136	39	0	18	751	5,104
133	1,545	46	10	0	5	200	1,806
134	2,470	52	32	0	7	331	2,892
140	2,160	71	17	0	10	341	2,599
TOTALS	50,518	1,480	492	1	191	8,259	60,941

**D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION ACTIVITY**

For voter registration activity between 1/31/2013 and 2/28/2013

NEW REGISTRATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Beginning Totals	377,436	31,850	4,321	54	1,352	87,231	502,244
Board of Elecitons Over the Counter	108	4	2	0	1	47	162
Board of Elections by Mail	327	21	7	0	2	98	455
Board of Elections Online Registration	192	28	2	0	0	56	278
Department of Motor Vehicle	2,266	321	24	2	15	988	3,616
Department of Disability Services	5	0	0	0	0	1	6
Office of Aging	0	0	0	0	0	0	0
Federal Postcard Application	1	0	0	0	0	0	1
Department of Parks and Recreation	0	0	0	0	0	0	0
Nursing Home Program	1	0	0	0	0	0	1
Dept. of Youth Rehabilitative Services	0	0	0	0	0	0	0
Department of Corrections	34	1	0	0	0	9	44
Department of Human Services	40	0	2	0	0	4	46
Special / Provisional	0	0	0	0	1	0	1
All Other Sources	37	3	1	0	0	18	59
+Total New Registrations	3,011	378	38	2	19	1,221	4,669

ACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
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Reinstated from Inactive Status	204	9	0	0	0	30	243
Administrative Corrections	40	1	1	0	8	531	581
+TOTAL ACTIVATIONS	244	10	1	0	8	561	824

DEACTIVATIONS	DEM	REP	STG	LIB	OTH	N-P	TOTAL
Changed to Inactive Status	217	17	2	0	0	54	290
Moved Out of District (Deleted)	4	0	0	0	0	0	4
Felon (Deleted)	0	0	0	0	0	0	0
Deceased (Deleted)	97	22	1	0	0	20	140
Administrative Corrections	1,435	176	24	1	3	260	1,899
-TOTAL DEACTIVATIONS	1,753	215	27	1	3	334	2,333

AFFILIATION CHANGES	DEM	REP	STG	LIB	OTH	N-P	
+ Changed To Party	981	122	39	58	22	320	
- Changed From Party	-308	-143	-19	-3	-80	-990	
ENDING TOTALS	379,611	32,002	4,353	110	1,318	88,009	505,403

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2013

PUBLIC NOTICE

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5th Floor, Washington, DC, intends to issue four permits (#5674-R1, #5742-R1, #5971-R1, and #6107-R1) to Joint Base Myer-Henderson Hall to operate the four diesel fired emergency generator listed in the table below at Fort Lesley J. McNair, 4th and P Streets SW, Washington DC. The contact person for the facility is Mr. Michael Khalamayzer, Acting Director, Directorate of Environmental Management, at (703) 696-8306.

Equipment Location	Generator Size	Permit No.
Building 41	25 kW	5674-R1
Building 46	80 kW	5742-R1
Building 39	600 kW	5971-R1
Quarters 8	60 kW	6107-R1

The proposed emission limits are as follows:

- a. Emissions from each of these units shall not exceed those in the following table [40 CFR 60.4205(b), 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)]: *Note that these requirements are only applicable to newer units covered by 40 CFR 60, Subpart IIII, thus requirements are only stated for two of the units.*

Permit No.	Pollutant Emission Limits (g/kW-hr)*		
	NMHC+NO _x	CO	PM
5971-R1	6.4	3.5	0.20
6107-R1	4.7	5.0	0.40

*As measured according to the procedures set forth in 40 CFR 89, Subpart E.

- b. Visible emissions shall not be emitted into the outdoor atmosphere from this generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1].
- C. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The applications to operate the generators and the draft permits are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permits and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Stephen.Ours@dc.gov

No written comments or hearing requests postmarked after April 15, 2013 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF PUBLIC MEETING

District of Columbia Health Information Exchange Policy Board

The District of Columbia Health Information Exchange Policy Board, pursuant to the requirements of Mayor's Order 2012-24, dated February 15, 2012, hereby announces a public meeting of the Board. The meeting will be held **Wednesday, March 20, 2013** at 2:00 pm in the **6th Floor Conference Room 6130** at 899 North Capitol Street, NE, Washington, DC 20002.

The District of Columbia Health Information Exchange Policy Board meeting is open to the public. The topics to be discussed on the agenda include a Welcome and Introduction, Approval of the Minutes from the February 20, 2013 Meeting, Vice Chair Selection, DC HIE Stakeholder Survey, DC HIE GANTT Chart Review, ONC Deliverables Review, New Business, and Reports.

If you have any questions, please contact Cleveland Woodson at (202) 724-7342.

**DEPARTMENT OF HEALTH (DOH)
HIV/AIDS, HEPATITIS, STD & TB ADMINISTRATION (HAHSTA)**

**NOTICE OF FUNDING AVAILABILITY (NOFA)
RFA #RW A&B_032913**

FY 2013 Ryan White HIV/AIDS Treatment Extension Act of 2009 Part A & B

The Government of the District of Columbia, Department of Health, HIV/AIDS, Hepatitis, STD & TB Administration (HAHSTA) is soliciting applications from qualified applicants to provide a variety of clinical and medical support services to indigent, uninsured and under-insured persons who are living with HIV/AIDS in the District of Columbia and the Eligible Metropolitan Area (EMA).

Approximately **\$17,000,000** (for a twelve-month period) in FY 2013 Ryan White Part A & B grants funds are expected to be available for services in the following areas:

Clinical Services	\$12,750,000
Medical Support Services	\$4,250,000

Services under the FY 2013 Ryan White Part A & B grant programs include outpatient primary medical health care, specialized case management, basic life needs and a variety of support services. All activities funded will support people with HIV to enroll and be retained in a regular system of medical care, to maximize the achievement of durable viral suppression.

All awards are contingent upon an award to the District of Columbia Department of Health by the U.S. Health Resources & Services Administration (HRSA) under the Ryan White Part A & B programs.

The Request for Application (RFA) release date is Friday, March 29, 2013. The RFA will be available for pick up at The District of Columbia, Department of Health, HAHSTA located at 899 North Capitol Street NE, 4th floor and on the Office of Partnerships and Grant Services, DC Grants Clearinghouse website www.opgs.dc.gov on **Friday, March 29, 2013**. The Pre-Application Conference will be held on **Tuesday, April 9, 2013 from 10:00 am – 12:00 pm at 899 North Capitol St. NE, 4th floor, Washington, DC.**

The submission deadline for the HAHSTA RFA# RWA&B_032913 is 4:45 pm Thursday, May 23, 2013.at the HAHSTA offices, 899 North Capitol St. NE, 4th floor, Washington, DC 20002. Proposals that are not delivered and received by this deadline will not be considered for funding.

Please contact **T’Wana Holmes** at **(202) 671-4900** for additional information.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**NOTICE OF FUNDING AVAILABILITY****Administration of the District of Columbia Homebuyer Assistance Program**

The District of Columbia Department of Housing and Community Development (DHCD) hereby announces grant funding availability for a non-profit organization to administer the following District of Columbia Homebuyer Assistance Programs: Home Purchase Assistance Program (HPAP); Employer-Assisted Program (EAHP); the Home Purchase Rehabilitation Pilot Program; the Negotiated Employee Assistance Home Purchase Program (NEAHP); and the Home Purchase Assistance Step-Up Program. The Department intends to make funds available to one non-profit organization for these activities.

The activities to be funded under this Notice are related to applicant eligibility determination, loan processing and loan approval.

The Request for Applications (RFA) will include detailed descriptions of required organizational qualifications and grant-eligibility activities.

The RFA will be available on Monday, April 1, 2013, at DHCD, located at: 1800 Martin Luther King, Jr., Avenue, SE, Washington, DC 20020 – 3rd Floor Reception Desk. The RFA also will be available from the DHCD website, located at www.dhcd.dc.gov, on or about April 1, 2013. For additional information about this opportunity, please contact Janice Blassingame of DHCD's Residential and Community Services Division, at (202) 442-7295.

DHCD will host a pre-application conference for potential RFA respondents on Monday, April 8, 2013, at 2:00 pm – 4:00 pm at 1800 Martin Luther King, Jr., Avenue, SE, 1st floor Housing Resource Conference Room. All potential applicants are encouraged to attend the conference.

The deadline for submission of grant applications is Friday, May 10, 2013 at 4:00 p.m.

Funding under this notice is anticipated to begin in the first quarter of fiscal year 2014.

DISTRICT OF COLUMBIA COMMISSION ON JUDICIAL DISABILITIES AND TENURE

**Judicial Tenure Commission Begins Reappointment Evaluations Of
Judges Patricia A. Broderick and Neal E. Kravitz**

This is to notify members of the bar and the general public that the Commission has begun inquiries into the qualifications of Judges Patricia A. Broderick and Neal E. Kravitz of the Superior Court of the District of Columbia, who are declared candidates for reappointment as Associate Judges upon the expiration of their terms on October 21, 2013.

Under the provisions of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198, 87 Stat. 796 (1973), §443(c) as amended by the District of Columbia Judicial Efficiency and Improvement Act, P.L. 99-573, 100 Stat. 3233, §12(1) provides in part as follows:

"...If a declaration (of candidacy) is so filed, the Tenure Commission shall, not less than sixty days prior to the expiration of the declaring candidate's term of office, prepare and submit to the President a written statement of the declaring candidate's performance during his present term of office and his fitness for reappointment to another term. If the Tenure Commission determines the declaring candidate to be well qualified for reappointment to another term, then the term of such declaring candidate shall be automatically extended for another full term, subject to mandatory retirement, suspension, or removal. If the Tenure Commission determines the declaring candidate to be qualified for reappointment to another term, then the President may nominate such candidate, in which case the President shall submit to the Senate for advice and consent the renomination of the declaring candidate as judge. If the President determines not to so nominate such declaring candidate, he shall nominate another candidate for such position only in accordance with the provisions of subsections (a) and (b). If the Tenure Commission determines the declaring candidate to be unqualified for reappointment to another term, then the President shall not submit to the Senate for advice and consent the nomination of the declaring candidate as judge and such judge shall not be eligible for reappointment or appointment as a judge of a District of Columbia court."

The Commission hereby requests members of the bar, litigants, interested organizations, and members of the public to submit any information bearing on the qualifications of Judges Broderick and Kravitz which it is believed will aid the Commission. The cooperation of the community at an early stage will greatly aid the Commission in fulfilling its responsibilities. The identity of any person submitting materials shall be kept confidential unless expressly authorized by the person submitting the information.

All communications should be received by the Commission no later than **May 31, 2013**, and addressed to:

District of Columbia Commission on Judicial Disabilities and Tenure
Building A, Room 246
515 Fifth Street, N.W.
Washington, D.C. 20001
Telephone: (202) 727-1363
Fax: (202) 727-9718

The members of the Commission are:

Hon. Gladys Kessler, Chairperson
William P. Lightfoot, Esq., Vice Chairperson
Michael K. Fauntroy, Ph.D.
Noel J. Francisco, Esq.
Shirley Ann Higuchi, Esq.
Jeannine C. Sanford, Esq.

BY: /s/ Gladys Kessler
Chairperson

**MAYA ANGELOU PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS**

Special Education Services – Occupational Therapy

Maya Angelou Public Charter School in Northeast DC will receive bids until March 29, 2013 for the provision of occupational therapy services as they relate to special education needs. All necessary forms may be obtained from Michael Vavala at See Forever Foundation/MAPCS at 1436 U Street, NW, Suite 203, Washington, DC 20009 – 202.797.8250.

Deadline for submissions is close of business Friday, March 29, 2013.

MOTOR VEHICLE THEFT PREVENTION COMMISSION

NOTICE OF PUBLIC MEETING

Friday, March 15, 2013
9:30 AM to 12:00 PM
John A. Wilson Building
1350 Pennsylvania Avenue, NW,
Room 301
Washington, DC 20004

The Motor Vehicle Theft Prevention Commission will be holding its first meeting on Friday, March 15 at 9:30 a.m. The meeting will be held at the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Room 301, Washington, DC 20004

For additional information, please contact Andrew Fois at (202) 202-727-4750 or andrew.fois@dc.gov

AGENDA

- I.** Swearing in of Members
- II.** Administrative matters
- III.** Funding Sources
- IV.** Scope of Work

THE NOT-FOR-PROFIT HOSPITAL CORPORATION**BOARD OF DIRECTORS****NOTICE OF CLOSED EMERGENCY MEETING**

The Board of Directors of the Not-For-Profit Hospital Corporation, an independent instrumentality of the District of Columbia Government, will hold a closed session conference call emergency meeting pursuant to D.C. Official Code § 2-575(b)(2) at 12noon on Monday, March 18, 2013. Notice of this emergency meeting will be posted in the Not-For-Profit Hospital Corporation, and may be published in the D.C. Register.

DRAFT AGENDA

- I. CALL TO ORDER**
- II. DETERMINATION OF A QUORUM**
- III. APPROVAL OF AGENDA**
- IV. BOARD DISCUSSION**
 1. Contracts related - (D.C. Official Code § 2-575(b)(2))
- V. OTHER BUSINESS**
 1. Old Business
 2. New Business
- VI. ANNOUNCEMENT**
 1. The next Governing Board Meeting will be held 9:00 a.m., March 28, 2013 at United Medical Center.
- VII. ADJOURNMENT**

DISTRICT OF COLUMBIA RETIREMENT BOARD

NOTICE OF OPEN PUBLIC MEETING

March 21, 2013
1:00 p.m.

DCRB Board Room (2nd floor)
900 7th Street, N.W.
Washington, D.C. 20001

The District of Columbia Retirement Board (DCRB) will hold an Open meeting on March 21, 2013, at 1:00 p.m. The meeting will be held in the DCRB Board Room (2nd floor) at 900 7th Street, N.W., Washington, D.C. 20001. A general agenda for the Open Board meeting is outlined below.

Please call one (1) business day prior to the meeting to ensure the meeting has not been cancelled or rescheduled. For additional information, please contact Rabinai Carson, Administrative Specialist at (202) 343-3200 or rabinai.carson@dc.gov.

AGENDA

- | | | |
|-------|---|-------------------|
| I. | Call to Order and Roll Call | Chairman Bress |
| II. | Approval of Board Meeting Minutes for February 21, 2013 | Chairman Bress |
| III. | Chairman's Comments | Chairman Bress |
| IV. | General Counsel Report | Ms. Sampson |
| V. | Investment Committee Report | Trustee Blum |
| VI. | Operations Committee Report | TBD |
| VII. | Benefits Committee Report | Trustee Suter |
| VIII. | Legislative Committee Report | Trustee Blanchard |
| IX. | Executive Director's Report | Mr. Stanchfield |
| X. | Other Business | Chairman Bress |
| XI. | Adjournment | Chairman Bress |

DISTRICT OF COLUMBIA RETIREMENT BOARD**INVESTMENT COMMITTEE****NOTICE OF CLOSED MEETING**

March 21, 2013 10:00 a.m.
DCRB Board Room (2nd floor)
900 7th Street, N.W.,
Washington, D.C 20001

On March 21, 2013 at 10:00 a.m., the District of Columbia Retirement Board (DCRB) will hold a closed investment committee meeting regarding investment matters. In accordance with D.C. Code §2-575(b)(1), (2), and (11) and §1-909.05(e), the investment committee meeting will be closed to deliberate and make decisions on investments matters, the disclosure of which would jeopardize the ability of the DCRB to implement investment decisions or to achieve investment objectives.

The meeting will be held in the DCRB Board Room (2nd floor) at 900 7th Street, N.W., Washington, D.C 20001.

For additional information, please contact Rabinai Carson, Administrative Specialist at (202) 343-3200 or rabinai.carson@dc.gov.

OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA**APPOINTMENTS OF NOTARIES PUBLIC**

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after April 1, 2013.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4th Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on March 25, 2013. Additional copies of this list are available at the above address or the website of the Office of the Secretary at www.os.dc.gov.

D.C. Office of the Secretary
 Recommended for appointment as a DC Notaries Public

Effective: April 1, 2013

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Adair	Kirk	Self (Dual) 5909 Clay Street, NE, Apt. 304	20019
Anglin	Christine	Wells Fargo Bank 2119 Bladensburg Road, NE	20018
Antonelli	Nicole	Community Preservation and Development Corporation 5513 Connecticut Avenue, NW, Suite 250	20015
Arnfeld	Cynthia Anne	Hughes Hubbard & Reed LLP 1775 1st Street, NW, Suite 600	20006
Atkins	Thelminette	Feldesman Tucker Leifer Fidell LLP 1129 20th Street, NW, 4th Floor	20036
Barnes	Angela V.	Sasha Bruce Youthwork, Inc. 741 8th Street, NW	20003
Barriale	Amy	African Wildlife Foundation 1400 16th Street, NW, Suite 120	20036
Beard	Michelle D.	University Legal Services, Inc. 220 I Street, NE, Suite 130	20002
Bergling	Susanne	For The Record, Inc. 1100 H Street, NW, Suite 1050	20005
Bernhardt	Melanie D.	Thompson Hine LLP 1919 M Street, NW, Suite 700	20036
Blanco	Carlos E.	Salvador Travel 1764 Columbia Road, NW, 2nd Floor	20009
Bradley	Joseph E	Alderson Reporting 1155 Connecticut Avenue, NW	20036
Brady	Michael Todd	American Public Gas Association 201 Massachusetts Avenue, NE, C-4	20002

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Briotta	Nancy C.	KPMG LLP 1801 K Street, NW, Suite 12000	20006
Brown	Cheryl V.	U.S. Department of the Interior 1849 C Street, NW, MS 6422	20240
Brueggemeyer	Beth	International Life Sciences Institute 1156 15th Street, NW	20005
Burroughs	Teresa M.	Quarles & Brady LLP 1700 K Street, NW, Suite 825	20006
Butler	Brandon M.	Creative Processes LLC 5363 Clay Terrace, NE	20019
Callaway	James E.	Jones Day 51 Louisiana Avenue, NW	20001
Canela	Terrence	The American Institute of Architects 1735 New York Avenue, NW	20006
Caster	Allen W.	Self (Dual) 420 Quackenbos Street, NW	20011
Chambers	Sandra T.	Government Printing Office 732 North Capitol Street, NW	20401
Davis	Carolyn C.	William Menard 3223 Chesapeake Street, NW	20008
Day	Angela	Broughton Construction, LLC 1050 17th Street, NW, Suite 440	20036
Day	Ian	Hill Partners LLP 2300 Wisconsin Avenue, Suite 300A	20007
Decosimo	Eleon	UBS Financial Services, Inc. 1501 K Street, NW, Suite 1100	20005
Deoliveira	Franco	PNC Bank 1201 Wisconsin Avenue, NW	20007

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Doggett	Cheryle W. Wanner	Doggett Enterprises, Inc. 1200 29th Street, NW	20007
Duncan	Essita Raquel	The Duncan Law Firm, PLLC 10 G Street, NE, Suite 710	20002
Flax	Margaret Jacobs	Allan & Flax PLLC 5335 Wisconsin Avenue, NW	20015
Flowers	Earnestine A.	Alston & Bird LLP 950 F Street, NW	20004
Franklin	Blake	Time Warner Inc. 800 Connecticut Avenue, NW, Suite 1200	20006
Green	Matnita A.	Securites and Exchange Commission Historical Society 1101 Pennsylvania Avenue, NW, Suite 600	20004
Greene	Leslei	Self 25 - 42nd Street, NE, #10	20019
Gregori	Jacob	Self (Dual) 2017 19th Street, NW	20009
Hagedorn	Mary Susan	Seeger, PC 2620 P Street, NW	20007
Harding	Tanya	MedStar Washington Hospital Center 110 Irving Street, NW	20010
Hightower	Marie V.	M&T Bank 1899 L Street, NW	20036
Jacobs	Kristen	Sage Title Group, LLC 4201 Connecticut Avenue, NW, Suite 406	20008
Kamrad	Leslie A.	National Trust for Historic Preservation in the United States 1785 Massachusetts Avenue, NW	20036

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Khatib	Taher I.	District Properties 6500 Chillum Place, NW	20012
Lancaster	Cheryl D.	Corrections Corporation of America 1901 E Street, SE	20003
Lawson	Samieleen	Pact 1828 L Street, NW, Suite 300	20036
Lawyer	Angela	Washington Hospital Center 110 Irving Street, NW	20010
Leandri	Annalisa	Williams & Connolly, LLP 725 12th Street, NW	20005
Lee	Kathryn Ryan	KVS Title 801 D Street, NE	20002
Lester	Paige	Time Warner Inc. 800 Connecticut Avenue, NW, Suite 1200	20006
Lewis	Timothy R.	Broughton Construction, LLC 1050 17th Street, NW, Suite 440	20036
Little	Vicki Jacobs	Williams Mullen 1666 K Street, NW, Suite 1200	20006
Locks	Glynis D.	Esquire Deposition Solutions 1425 K Street, NW, Suite 350	20005
Lovett	Ana Sofia	MedStar Washington Hospital Center 3800 Reservoir Road, NW	20007
Luria	Edward M.	Alvord and Alvord 1050 17th Street, NW, Suite 301	20036
Massey	Angelena O.	Independent Community Bankers of America 1615 L Street, NW, Suite 900	20036
McGauley-Bradley	Lillian R.	Office of the Attorney General, Child Support Services Division 441 4th Street, NW, Suite 550N	20001

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McKenrick	Amethyst	Council on Foreign Relations 1777 F Street, NW	20006
McLwain	Renee Mary	Active Closing LLC 4842 Kansas Avenue, NW	20011
Mejia	Claudia Y	Robinson & Geraldo, P.C. 1316 Pennsylvania Avenue, SE	20003
Mills	Aaralyn Liese	Self 250 K Street, NE, Apt. 108	20002
Moates-Lindsay	Michelle	United States Postal Service 475 L'Enfant Plaza, SW	20260
Moore	Caroline	The Federalist Society 1015 18th Street, NW, Suite 425	20036
Obaro	Ayodele Augustine	Oba Signing 4925 Fitch Place, NE	20019
Orrick	Michael J.	U.S. House of Representatives / Office of the Chief Administrative Officer B-227 Longworth HOB	20515
Palmer	Dona J.	McCarthy, Sweeney & Harkaway, P.C. 1825 K Street, NW, Suite 700	20006
Payne	Sherice C.	PNC Bank 3300 14th Street, NW	20010
Platt	Katharine	Self 1301 15th Street, NW, Apt. 516	20005
Popalzai	Ahmad Samir	Wells Fargo Bank, NA 444 North Capitol and E Street, NW	20001
Pratt	Michele D.	Forest City Washington 1615 L Street, NW	20036

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Quinteros	Catalina Esmeralda	A Briggs Visa and Passports Expeditors 1921 Sunderland Place, NW	20036
Robinson	Robert	Self 156 Adams Street, NW	20001
Oscher	Sara Leigh	Avenue Settlement Corporation 2401 Pennsylvania Avenue, NW, Suite H	20037
Russell	Maurice	Wells Fargo Bank, NA 1300 Connecticut Avenue, NW, Floor 1	20036
Saint-Felix	Edwidge	ICMA Retirement Corporation 777 North Capitol Street, NE, Suite 600	20002
Sawtell	Connie J.	Dominion Title Corporation 1725 I Street, NW, Suite 300	20006
Sebastian	Saji	Self 4600 Connecticut Avenue, NW, Suite 919	20008
Sesay	Rashid	Capital One Bank 4000 Wisconsin Avenue, NW	20016
Sinclair	Dennis Edward	Corrections Corporation of America 1901 E Street, SE	20003
Squirrell	Brenda	Government Printing Office 732 North Capitol Street, NW	20401
Stewart	Georgia A.	DC Office of Human Rights 441 4th Street, NW, Suite 570N	20001
Stonestreet	Rebecca	Planet Depos 1100 Connecticut Avenue, NW, Suite 900	20036
Tashakor	Elham	Usquicklegalization LLC 700 12th Street, NW, Suite 700	20005

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Taylor, Esq.	Candas C.	Self 3735 D Street, SE, Apt. 101	20019
Thompson	Robin	Citibank, NA 1225 Connecticut Avenue, NW	20036
Thurman	Jennifer A.	Superior Home Services, Inc. 2164 Wisconsin Avenue, NW	20007
Turner	Charlie Eliza	McLean and Associates 1122 8th Street, NE	20002
Turner, III	John A.	Shook, Hardy & Bacon LLP 1155 F Street, NW, Suite 200	20004
Ucman	Barbara E.	Baptiste & Wilder, P.C. 1150 Connecticut Avenue, NW, Suite 315	20036
Veillard	Kevin	Bank of America 1801 K Street, NW	20006
Villagran	Angelica M.	Foley Hoag LLP 1875 K Street, NW, Suite 800	20006
Vincent	Mary F.	Sincerely Yours, Inc. 325 Pennsylvania Avenue, SE	20003
Washington	Tonica D.	African Wildlife Foundation 1400 Sixteenth Street, NW, Suite 120	20036
West	Sharon D.	Justice Federal Credit Union 950 Pennsylvania Avenue, NW	20530
Winde	Jonathan C.	Law Office of Jonathan C. Windle, P.C. 471 H Street, NW	20001
Wright	Lisa S.	Stone Gate Realty Group 513 Harvard Street, NW	20001
Zoller	Danielle	Corrections Corporation of America, Correctional Treatment Facility 1901 E Street, SE	20003

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DC TAXICAB COMMISSION**

NOTICE OF SPECIAL MEETING

The District of Columbia Taxicab Commission will be holding a Special Meeting on Wednesday, March 20, 2013 at 10:00 am. The special meeting will be held in the Old Council Chambers at 441 4th Street, NW, Washington, DC 20001.

The final agenda will be posted no later than seven (7) days before the General Commission Meeting on the DCTC website at www.dctaxi.dc.gov.

Members of the public must register to speak. The time limit for registered speakers is five (5) minutes. A speaker should also submit two (2) copies of any prepared statement to the Assistant Secretary to the Commission. Registration to speak closes at 4:30 pm the day prior to the meeting. Call 202-645-6018, extension 4. Registration consists of your name; your phone number or email contact; and your subject matter.

DRAFT AGENDA

- I. Call to Order
- II. Commission Communication
- III. Adjournment

**DEPARTMENT OF TRANSPORTATION
POLICY, PLANNING & SUSTAINABILITY ADMINISTRATION
HIGHWAY SAFETY BEHAVIORAL GRANT PROGRAM**

NOTICE OF FUNDING AVAILABILITY

Fiscal year 2014 Highway Safety Grants to Non-Profit Community-Based Organizations

The Policy, Planning & Sustainability Administration (PPSA), Highway Safety Division, within the District of Columbia (District) Department of Transportation (DDOT) is soliciting detailed innovative projects that will provide solutions to identified problems, implement proven strategies, show a commitment on the part of the applicant to sustain and contribute to success, have measurable outcomes, and/or have the greatest demonstrable need/problem. Identified problem areas are: Impaired Driving; Occupant Protection to include seat belts and child passenger safety; Aggressive Driving; Pedestrian/Bicycle Safety; and, Traffic Records. The purpose of the Highway Safety (Behavioral) Grant Program is to reduce fatalities and injuries in the District of Columbia through the implementation of programs that will bring awareness to pedestrians/bicyclists, and motorists. Applicants problem statements must be data driven, have performance measures, goals and objectives.

DDOT intends to make several grant awards of up to one hundred thousand dollars (\$100,000) to fund eligible organizations, which will expire September 30, 2014. Eligible organizations include non-profit organizations. The service and activities to be funded through these grants should have a direct impact on behavioral changes of residents of the District of Columbia and meet the requirements of the highway safety grant program.

The Request for Application (RFA) will be released on Monday April 1, 2013 and a copy of the grant application may be obtained from PPSA's Highway Safety Division's main office located at 55 M Street, SE, 5th floor, Washington, DC 20003, or can be obtained by going to the safety office's website www.ddot-hso.com. Once there click on "*Grants Information*," then click on *2014 Grant Application & Guide – Due date May 1, 2013*. For additional information please contact Carole A. Lewis at (202)671-0492, or by email at: carole.lewis@dc.gov.

The deadline for submission of all grant applications is Monday, May 1, 2013 at 3:00 pm

A Pre-Application Workshop is planned for Friday April 15, 2013 from 10:30 am – 12 Noon at the PPSA Offices located at 55 M Street, SE, 5th floor, Washington, DC 20003. Applicants interested in attending the Workshop should RSVP by email at: carole.lewis@dc.gov on or before Friday April 12, 2013.

NOTICE OF NON-DISCRIMINATION

In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§2-1401.01 *et seq.* (Act), the District of Columbia does not discriminate on the basis of (actual or perceived: race, color, religion, national origin, sex, age, marital status, personal

appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Environmental Quality and Sewerage Services Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Sewerage Services Committee will be holding a meeting on Thursday, March 21, 2013 at 9:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or لمانley@dewater.com.

DRAFT AGENDA

- I. **Call to Order** Committee Chairperson
- II. **AWTP Status Updates** Assistant General Manager,
 - 1. BPAWTP Performance Plant Operations
- III. **Status Updates** Chief Engineer
- IV. **Project Status Updates** Director, Engineering & Technical
Services
- V. **Action Items** Chief Engineer
 - Joint Use
 - Non-Joint Use
- VI. **Emerging Items/Other Business**
- VII. **Adjournment** Committee Chairperson

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

Water Quality and Water Services Committee

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Water Quality and Water Services Committee will be holding a meeting on Thursday, March 21, 2013, at 11:30 a.m. The meeting will be held in the Board Room (4th floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water’s website at www.dewater.com.

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or linda.manley@dewater.com.

DRAFT AGENDA

- | | |
|--|--|
| I. Call to Order | Committee Chairperson |
| II. Water Quality Monitoring | Assistant General Manager, Consumer Ser. |
| III. Fire Hydrant Upgrade Program | Assistant General Manager, Consumer Ser. |
| IV. Action Items | Assistant General Manager, Consumer Ser. |
| V. Emerging Issues/Other Business | Assistant General Manager, Consumer Ser. |
| VI. Adjournment | Committee Chairperson |

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18376 of Cornelle Smith, pursuant to 11 DCMR § §3103.2 for an area variance from the story requirements under § 400.1 of the Zoning Regulations, and an area variance from the open court requirements under § 406.1 of the Zoning Regulations, to accommodate third and fourth floor additions to an existing four-unit apartment building in the R-4 District, at premises 3453 Holmead Place, N.W. (Square 2834, Lot 73).

HEARING DATE: July 17, 2012
DECISION DATE: July 17, 2012

DECISION AND ORDER

On March 14, 2012, Cornelle Smith, (the “Applicant”) filed an application with the Board of Zoning Adjustment (the “Board”) requesting area variances from the story requirements and open court requirements of §§ 400.1 and 406.1 of the Zoning Regulations, to allow third and fourth floor additions to an existing apartment building. At the time of the public hearing, the additions had already been constructed, without a building permit. Following a full public hearing, the Board voted to grant the court width variance allowing the third floor addition but to deny the story variance allowing the fourth floor addition.¹

PRELIMINARY MATTERS

Authorization

The Applicant in this case is Cornelle Smith, owner of the property located at 3453 Holmead Place, N.W. He was represented by Dianna Reed, a land use consultant with the firm “Land Use By Design”. (Exhibit 30.)

The Application

The application was filed by Ms. Reed on March 14, 2012, seeking variances from the open court requirements under § 406.1 of the Zoning Regulations, and the story requirements under § 400.1 of the Zoning Regulations, to allow existing additions on the third and fourth floors of an apartment building.

¹ The Board’s motion to deny the story variance inadvertently included a denial of lot area relief, lot width relief, and lot occupancy relief. The Office of Planning (“OP”) had suggested that the application be amended to include these additional forms of relief. Because the application was not amended by the Applicant to include any additional relief, and the Applicant did not address any of these issues at the hearing, the Board considered only the relief that was requested by the Applicant in his application.

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Referral by the Zoning Administrator

The application was referred to the Board by the Zoning Administrator (“ZA”) of the District Department of Consumer and Regulatory Affairs (“DCRA”). (Exhibit 5.) The relief sought – for relief from the story requirements and the open court requirements – was consistent with the relief recommended by the ZA. While the ZA does not include a referral for lot area relief, the ZA’s computational chart indicated that the 2,117 square foot (“s.f.”) lot area was nonconforming. The Board agrees that the lot area is nonconforming, but disagrees that the lot area requirement is 4,000 s.f., as noted in the ZA’s chart. Because the building was converted to a four-unit apartment building, the lot area requirement would be 3,600 s.f. (i.e., 4 x 900 square feet), not 4,000 s.f. (*See*, 11 DCMR § 401.3.²) However, as noted previously, the Applicant did not request relief from the lot area requirement, and the Board will not consider the lot area in this application. The fact that the Board only considered the zoning relief sought does not mean that no additional relief is needed. That determination is for the ZA to make.

Notice of Public Hearing

Notice

Pursuant to 11 DCMR § 3113.13, notice of the hearing was sent by the Office of Zoning to the Applicant, all owners of property within 200 feet of the subject site, Advisory Neighborhood Commission (“ANC”) 1A, and the District of Columbia Office of Planning (“OP”).

Posting

The Applicant posted placards at the property regarding the application and public hearing in accordance with 11 DCMR §§ 3113.14 through 3113.20. He also submitted an affidavit to this effect in accordance with 11 DCMR §§ 3113.19 and 3113.20. (Exhibit 31.)

ANC 1A

The subject site is located within the jurisdiction of ANC 1A, which is automatically a party to this application. According to the Applicant’s Land Use Consultant, the ANC voted to support the request for both variances. (Hearing Transcript of July 17, 2012, “Tr.”, p.34.) However, at the time of the public hearing, the ANC had not filed any written report with the Board. Nor was there an appearance at the public hearing by any representative of the ANC. The Board therefore proceeded as if the ANC had taken no action.

Requests for Party Status

The Board received no request for party status.

Persons in Support

No persons appeared at the hearing to testify in support of the application. Nor were any letters

² The applicable portion of § 401.3 is “Conversion of a building or structure to an apartment house” -- 900/apartment or bachelor apartment”. The 4,000 s.f. requirement relates to “All other structures” and is inapposite.

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received from persons in support of the application.

Persons in Opposition

The Board received letters in opposition from two neighboring property owners, Jorge Granados at 3455 Holmead Place, N.W. (Exhibit 22); and Mikelle Devillier and Eric Decuir, Jr., at 3457 Holmead Place, N.W. (Exhibit 28). In addition, Mr. Granados testified at the public hearing in opposition to the application. Mr. Granados and the Devillier/Decuir family concurred regarding their opposition. Both of them claimed that the Applicant's property now "towered" over neighboring structures, that the Applicant's construction materials were inferior, and that the Applicant's addition encroached on Mr. Granados's property. They also objected to the fact that the additions were erected unlawfully – i.e., without the required building permit.

Government Reports

Office of Planning ("OP") Report

OP reviewed the application and prepared a report recommending approval in part, and denial in part. (Exhibit 29.) OP concluded that the Applicant had satisfied the variance test for the open court relief, but had failed to establish that there was any "exceptional condition"³ at the property which resulted in the Applicant's inability to comply with the story requirements. OP's representative, Maxine Brown-Roberts, also testified to this effect at the public hearing.

District of Columbia Department of Transportation ("DDOT")

DDOT submitted a report stating that it had no objection to the variances sought by the Applicant. (Exhibit 24.)

FINDINGS OF FACT

The Property

1. The subject property is located at 3453 Holmead Place, N.W., in Square 2834, Lot 73, in the R-4 Zone District.
2. The subject property is a rectangular lot that is 16.67 feet wide, with a lot area of 2,117 s.f.
3. The subject property fronts on Holmead Place, N.W., and has a 16 foot wide alley to its rear.
4. There are two- and three- story row dwellings immediately adjacent to the subject property.

³ As will be explained in further detail, establishing an exceptional condition is necessary in order to satisfy the first prong of the variance test.

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5. The surrounding neighborhood is characterized by two- and three-story row dwellings, three- to five- story apartment buildings, and a few retail and institutional uses.
6. The subject property was previously developed as a three-story apartment building with a partially above ground basement. It housed four residential units: one each at the basement level, and first, second, and third floor levels.
7. The basement unit, first floor unit, and second floor unit were each between 1,100 and 1,200 s.f. The third floor unit was approximately 700 s.f.

The Additions

8. In about 2006, the Applicant constructed two additions to the building without obtaining a building permit: an addition to the rear of the third floor of the building comprising about 400 s.f., and a new fourth floor addition to the building also comprising about 400 s.f.
9. At the time of the public hearing, the building consisted of four stories and four residential units.
10. With the additions, the basement unit, first floor unit, and second floor unit, each remain between 1,100 and 1,200 s.f. The third and fourth floors are connected by internal stairs and comprise one unit of about 1,500 s.f. The 1,500 s.f. consists of the original third floor area (700 s.f.), the area of the third floor addition (400 s.f.), and the area of the fourth floor addition (400 s.f.).
11. Following the unauthorized additions, DCRA took various enforcement steps against the Applicant, including the issuance of "Stop Work Orders" and "Notices of infraction".
12. This application was filed to obtain approval of the two unauthorized additions.

The Zoning Relief Required

13. Subsection 406.1 requires a minimum open court width of 10 feet in the R-4 Zone District. The building has a non-conforming 2.67 feet wide open court which is extended with the addition to the third floor and a new fourth floor. Thus, an area variance is needed from the requirements of § 406.1.
14. Subsection 400.1 allows a maximum of three stories on a building in the R-4 Zone District. With the addition, the building has a non-conforming fourth story. Thus, an area variance is needed from the requirements of § 400.1.

BZA APPLICATION NO. 18376**PAGE NO. 5****The Open Court Relief***The Exceptional Condition*

15. Given a lot width of only 16.67 feet, the dwelling and open court width are exceptionally narrow.

Practical Difficulty

16. The nonconforming open court can only be expanded to meet the 10 foot requirement by demolishing a portion of the existing building. Such an endeavor would likely affect the integrity of the structure. (OP Report, Exhibit 29.)
17. Demolition is not a sensible option because the third floor unit size needs to be expanded, not decreased. Without the third floor addition, the third floor unit had an area of only 720 s.f. and, according to the Applicant, the unit was too small to be rented or sold. (Tr., p. 72.)
18. If the open court area were filled in, the court area would be eliminated and the building could be expanded to the property line. This would eliminate the problem of a nonconforming open court. However, this would also be out of character with the other residences along Holmead Place which have a pattern of courts between buildings to allow light and air into the rear portions of the homes. Eliminating the open court would likely have a negative impact on the adjacent property as the light, air and privacy to the property could be reduced.

The Story Relief

19. There was no evidence of any exceptional condition at the property that would cause practical difficulty in complying with the three story limit at the property.
20. The Applicant suggested that the fourth floor addition was essential because, without the additional area, the third floor unit (with which it was combined) would not be "livable, sellable, [or] rentable". (Tr., p. 74.) However, when combined with the third floor addition, the third floor unit would be in the same size range (about 1,100 s.f.) as the basement, first and second floor units. (See, Findings of Fact 7 & 8, The third floor was about 700 s.f., and the third floor addition is another 400 s.f., for a combined area of 1,100 s.f.).
21. The Applicant claims that he will suffer financial losses as a result of having to take down the fourth floor addition.

CONCLUSIONS OF LAW

The Board is authorized under § 8 of the Zoning Act of 1938, D.C. Official Code § 6-631.07

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(g)(3), to grant variance relief where, “by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,” the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. (*See* 11 DCMR § 3103.2.)

Under the three-prong test for area variances set out in 11 DCMR § 3103.2, an applicant must demonstrate that (1) the property is unique because of its size, shape, topography, or other extraordinary or exceptional situation or condition inherent in the property; (2) the applicant will encounter practical difficulty if the Zoning Regulations are strictly applied; and (3) the requested variances will not result in substantial detriment to the public good or the zone plan. *See Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990). In order to prove "practical difficulties," an applicant must demonstrate first, that compliance with the area restriction would be unnecessarily burdensome; and, second, that the practical difficulties are unique to the particular property. *Id.* At 1170.

The Variance from the Open Court Requirement

As will be explained later in this Order, the Board voted to deny a variance to allow a fourth story. Therefore, its discussion of the open court variance is predicated upon there being only an expansion to the rear of the third floor.

The Board finds that the exceedingly narrow open court width is an exceptional condition. This exceptional condition leads to a practical difficulty in Applicant's ability to expand the property. The only way to increase the open court width to meet the Regulations is to demolish a portion of the building. According to OP, this would result in an addition that is only six feet wide, which would adversely affect the structure of the building. Were the Applicant to eliminate the open court altogether, the nonconformity would be removed but the neighboring property owners would be adversely affected by diminished light and air, and a pattern of development that would be inconsistent with other dwellings on the street. Thus, the first and second prongs of the variance test are met.

Turning to the third prong of the variance test, the Board concludes that the nonconforming open court width and third floor addition will not impair the public good or the zone plan. The third floor addition does not increase the number of units or change the density of the apartment building. It increases the third floor apartment area by 400 s.f. but does not alter the character of the building, the street, or the neighborhood.

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The Variance from the Story Requirements for the Fourth Floor Addition

The Board finds that the Applicant never established any exceptional condition relating to the additional fourth floor and, therefore, did not satisfy the test for an area variance for the fourth floor.

The Applicant suggested that, in order for the project to be financially viable, the third and fourth floors had to be combined to comprise a two-story unit of 1,500 s.f. Not only was there no proof of this assertion, the Applicant's suggestion is illogical. None of the other three units were that size and there is no suggestion that the other units could not be rented. The other three units were between 1,100 and 1,200 s.f., approximately the same size as the third floor unit plus the third floor addition. The Applicant never explained why it was essential that the third floor unit with addition had to be combined with the fourth floor addition to achieve a unit area of 1,500 s.f. While the Applicant encountered serious financial difficulties, there is no evidence that this stemmed from having a fourth unit that was 1,100 s.f. instead of 1,500 s.f.

Nor was the Board persuaded by the Applicant's reliance on an "exceptional condition" flowing from DCRA's enforcement actions. (The Applicant argued that DCRA issued numerous stop work orders "for the same scope of work". (Tr., p. 36).) Even if true, this has no relevance to the variance test. Nor is it related to "zoning history" as a basis for an "exceptional condition". The Applicant cites several cases, including *Application No. 17218 of Tanya Harris*, which discusses "zoning history" as a basis for the first prong of the variance test. However, this case is not germane to the facts at hand. In the *Harris case*, for instance, the Applicant relied on formal and informal actions of DCRA when completing her project, i.e. DCRA's issuance of a building permit and its affirmative revocation of a stop work order based on that permit. In the case at hand, there was no such reliance. DCRA never issued a building permit or encouraged the Applicant in any way to proceed with the unauthorized fourth story.

In this matter, the burden of proof rested with the Applicant. (11 DCMR § 3119.2.) Since the Applicant failed to meet his burden of proof, the Board had no choice but to deny the request for relief for the story variance.

ANC

Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10 (d)(3)(B)) requires that the Board's written orders give "great weight" to the issues and concerns raised in the recommendations of the affected ANC. The ANC here did not submit a written report with recommendations. Thus, there was nothing to which to give great weight.

The Board is also required under D.C. Official Code § 6-623.04(2001) to give "great weight" to OP recommendations. For the reasons stated in this Decision and Order, the Board finds OP's advice to be persuasive.

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Therefore, for the reasons stated above, it is hereby **ORDERED** that the application is hereby **GRANTED**, (subject to Exhibit 8, Plans) to allow an area variance from the open court requirements to construct the third floor addition, and **ORDERED** that the application is hereby **DENIED** for an area variance from the story requirements to construct the fourth floor addition.

VOTE: 4-0-1 (Lloyd J. Jordan, Nicole C. Sorg, Jeffery L. Hinkle, and Marcie I. Cohen, voting in support of the motion to GRANT the variance from the open court requirements to construct the third floor addition, and to DENY the variance from the story requirements which would allow construction of the fourth floor addition; Rashida Y.V. MacMurray not present, not voting.)

ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of Board members approved the issuance of this order.

FINAL DATE OF ORDER: March 8, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

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IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18393 of Marina Martin, pursuant to 11 DCMR §§ 3104.1 and 1202.1, for a special exception under § 223 to allow a rear deck addition to an existing flat (two-family) row dwelling, not meeting the requirements for lot occupancy (§ 403), lot area (§ 401) or nonconforming structures (§ 2001.3) in the CAP/R-4 District at premises 149 D Street, S.E. (Square 734, Lot 74).¹

HEARING DATE: September 11, 2012

DECISION DATE: October 23, 2012

DECISION AND ORDER

This application was submitted on April 17, 2012 by Marina Martin (the “Applicant”), the owner of the property that is the subject of the application. In accordance with a memorandum from the Zoning Administrator, dated March 21, 2012, the application requests a special exception under § 223 of the Zoning Regulations to allow construction of “a 2nd level rear deck addition to an existing flat which will exceed the maximum allowed lot occupancy from § 403.2 in the CAP/R-4 residential Zone District.” Following a public hearing, the Board voted to grant the requested special exception.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated April 20, 2012, the Office of Zoning provided notice of the application to the Office of Planning (“OP”) and to the Historic Preservation Office; the District Department of Transportation (“DDOT”); the Councilmember for Ward 6; Advisory Neighborhood Commission (“ANC”) 6B, the ANC in which the subject property is located; Single Member District/ANC 6B01; and the Architect of the Capitol. Pursuant to 11 DCMR § 3112.14, on June 1, 2012 the Office of Zoning mailed letters providing notice of the hearing to the Applicant, ANC 6B, and the owners of all property within 200 feet of the subject property. Notice was also published in the *D.C. Register* on June 1, 2012 (59 DCR 6281).

Party Status. The Applicant and ANC 6B were automatically parties in this proceeding. The Board granted a request for party status in opposition to the application from Lydia Hofer, the

¹ Consistent with the referral provided to the Applicant by the Zoning Administrator, this case was advertised as a request for a special exception under § 223 to allow an addition to a dwelling not meeting the requirement for lot occupancy under § 403.2. Based on the report filed in this case by the Office of Planning, and because the subject property is nonconforming with respect to lot area, the Board considered the application as a request for a special exception under § 223 to allow an addition to a dwelling not meeting requirements for lot occupancy under § 403.2, lot area under § 401, or the enlargement of a nonconforming structure under § 2001.3. The caption has been modified accordingly.

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owner and resident of a row dwelling adjoining the subject property at 151 D Street, S.E.

Applicant's Case. The Applicant described plans to replace a small, deteriorated wood stair at the rear of the dwelling with a new deck and spiral stair from the second level to grade. According to the Applicant, the new deck would not unduly affect light and air available to neighboring properties or unduly compromise the privacy of use and enjoyment of those properties because of its size and design. The Applicant also asserted that the rear deck addition would not visually intrude on the character, scale, or pattern of houses, since "from most vantage points along C Street S.E. and the public alley, the proposed deck will not be visible at all." (Exhibit 3.)

Party in opposition. The party in opposition asserted that the Applicant's proposed construction would have "a deleterious and unique effect upon Ms. Hofer's privacy as well as her use and enjoyment of her property." According to the party in opposition, the Applicant's existing deck "is nothing more than a small landing allowing for ingress and egress," and its replacement with a new deck, as planned by the Applicant, would "adversely affect the light and air available to Ms. Hofer's property." The party in opposition also contended that the scale and materials of the proposed construction would be "architecturally inconsistent with the exterior" of the Applicant's and surrounding dwellings and "would visually intrude upon the character, scale and pattern of the houses located in the immediate vicinity including the home of Ms. Hofer." (Exhibit 24.)

Government Reports. By memorandum dated August 30, 2012, OP recommended approval of the application based on OP's conclusion that the proposed deck addition would be consistent with zoning requirements.

By memorandum dated August 24, 2012, the DDOT indicated "no objection to [the] special exception sought by the Applicant." (Exhibit 25.)

By memorandum dated June 20, 2012, the Architect of the Capitol indicated its finding that "the proposed relief for 2nd level deck to an existing dwelling at 149 D Street, S.E. that does not meet the lot occupancy requirements under DCMR 11 §§ 403 and 223 is not inconsistent with the intent of the CAP/R4 District (Overlay) and would not adversely affect the health, safety, and general welfare of the U.S. Capitol precinct and area adjacent to this jurisdiction and is not inconsistent with the goals and mandates of the United States Congress as stated in DCMR 11 § 1200.1." (Exhibit 22.)

ANC Report. By letter dated July 14, 2012, ANC 6B indicated that, at a regularly scheduled meeting on July 10, 2012 with a quorum present, the ANC voted 8-0-0 in support of the application. According to the letter, "ANC 6B took this action after reviewing the applicant's documentation, and it believes the project's impact on light, air, and privacy will be negligible." (Exhibit 23.)

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Persons in support. The Applicant provided copies of several letters in support of the project that were submitted to ANC 6B by neighbors living near the subject property on D Street or North Carolina Avenue.

FINDINGS OF FACT

The Subject Property

1. The subject property is an interior lot on the south side of D Street, S.E., near its intersection with 2nd Street (Square 734, Lot 74). The property abuts a 20-foot-wide public alley located in the interior of Square 734, which terminates at the western lot line of the subject property. The Applicant's property is subject to an easement, 12 feet wide, across the rear of the lot that provides access to the alley for several adjoining to the east.
2. The subject property is improved with a three-story row dwelling that was constructed around 1968 and is configured as a flat.² A wooden staircase provides access to the second level (i.e. the upper dwelling), while the lower dwelling opens onto a patio, approximately 200 square feet, enclosed by a stockade fence. The remainder of the rear yard is paved and used for parking.
3. The subject property is generally rectangular, with an angled rear property line. The lot is approximately 18 feet wide, but is nonconforming with respect to lot area. (The existing lot area is 1,768 square feet where a minimum of 1,800 square feet is required pursuant to 11 DCMR § 401.3.) Existing lot occupancy is 56% where a maximum of 60% is permitted as a matter of right. (11 DCMR § 403.2.) The existing rear yard is approximately 41.8 feet where a minimum of 20 feet is required. (11 DCMR § 404.1.)
4. The majority of lots in the immediate vicinity of the subject property are developed with row dwellings or semi-detached one-family-dwellings, although a five-story apartment building and several two- or four-story commercial building are also located nearby.
5. The abutting property to the east (the residence of the party in opposition) has a bay window at the rear of the dwelling on the second level. A privacy fence, similar to the fence at the subject property, separates the rear yard from the parking pad at the rear of the lot. The

² In finding that the use of the subject property is a flat, and thus is eligible for consideration under § 223, the Board credits the testimony of the Applicant that she and her husband live in the upper unit and rent the lower level of the building to tenants, and that a certificate of occupancy was issued to authorize the use of the property as a two-family dwelling. The Applicant also submitted into the record a copy of an inspection report for one- and two-family dwellings for the subject property made in connection with the basic business license issued to the Applicant in 2010 for a two-family rental unit at the subject property. Notwithstanding the Board's finding, the party in opposition may pursue appropriate enforcement action to address her allegations that the Applicant's property is currently devoted to some use other than a flat.

BZA APPLICATION NO. 18393**PAGE NO. 4**

abutting property to the west also contains a parking area at the rear of the lot as well as a patio in the rear yard.

The Applicant's Project

6. The Applicant proposes to remove the existing wood stoop and steps from the second floor to grade, and replace that with a new deck, also at the second level, with a metal spiral stair to grade. As part of the project, an existing rear door on the second level will be removed, and the opening will be filled with masonry to match the existing dwelling. An existing bay window on the second level of the dwelling will be removed, and a new wood patio door will be installed in the former opening of the bay window to provide access to the deck.
7. The new deck will extend approximately 18 feet across the width of the dwelling on the second level, using a painted steel frame, treated wood floor joists, and a composite deck. Stainless steel posts will support a handrail with cable guard rails. The deck, approximately eight feet in depth, will rise approximately nine feet above grade to a total height of 13 feet at the top of the railing. A spiral stair will be located at the eastern edge of the deck, and a frosted safety glass privacy screen, seven feet high and the same depth as the deck, will be installed instead of a railing on the eastern side to screen views of the bay window of the neighboring property to the east. The deck will not extend beyond the existing privacy fence. (Exhibits 6 and 33.)
8. Any lighting installed on the new deck will be down-lighting that will not cause light to spill over onto adjacent properties.
9. The planned decks will result in lot occupancy of 64%, and will decrease the rear yard to approximately 31 feet.

Harmony with Zoning

10. The R-4 District is designed to include those areas now developed primarily with row dwellings, but within which there have been a substantial number of conversions of the dwellings into dwellings for two or more families. (11 DCMR § 330.1.) The primary purpose of the R-4 District is the stabilization of remaining one-family dwellings. (11 DCMR § 330.2.)
11. The Capitol Interest (CAP) Overlay District was established to promote and protect the public health, safety, and general welfare of the U.S. Capitol precinct and the area adjacent to that jurisdiction. (11 DCMR § 1200.1.) In an application for a special exception, the Board must consider, *inter alia*, whether the proposed development is compatible with the present and proposed development of the neighborhood. (11 DCMR § 1202.1.)

BZA APPLICATION NO. 18393**PAGE NO. 5****CONCLUSIONS OF LAW AND OPINION**

The Applicant requests special exception relief under § 223 to allow construction a second-level rear deck addition to an existing two-family row dwelling not meeting the requirements for maximum lot occupancy under § 403.2, minimum lot area under § 401, or enlargement of a nonconforming structure under § 2001.3 in the CAP/R-4 Zone District at 149 D Street, S.E. (Square 734, Lot 74). The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2008) to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. (*See* 11 DCMR § 3104.1.)

Pursuant to § 223, an addition to a one-family dwelling or flat may be permitted as a special exception, even when the dwelling does not meet all the specified area requirements identified in that section, subject to certain conditions. These conditions include that the addition must not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, and in particular the light and air available to neighboring properties must not be unduly affected, the privacy of use and enjoyment of neighboring properties must not be unduly compromised, and the addition, together with the original building, as viewed from the street, alley, and other public way, must not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage.

Based on the findings of fact, the Board finds that the requested special exception satisfies the requirements of §§ 223 and 3104.1 because the planned deck addition will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property. The Board credits the testimony of the Applicant and OP that the requested special exception will not unduly affect the light and air available to neighboring properties. The deck will be a relatively small addition, projecting approximately eight feet into the rear yard of the subject property, and will employ steel post supports and a railing that will allow the passage of light and air through the structure. The deck structure will not occupy a large portion of the rear yard, which will remain in excess of the minimum required by the Zoning Regulations.

The deck addition, as shown in the Applicant's revised drawings, will not unduly compromise the privacy of use and enjoyment of neighboring properties, because a privacy screen will shield views into and from the abutting property. The Board also concludes that the proposed deck will not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage. The deck addition will be visible only from the alley at the rear of abutting lots, and will not alter the residential use or appearance of the subject property. The Board credits the testimony of OP that the deck will employ "a contemporary residential design" and that the "Historic Preservation staff expressed no concerns with the proposed deck." (Exhibit 26.)

BZA APPLICATION NO. 18393
PAGE NO. 6

The Board concludes that the planned rear deck addition satisfies the requirements of § 223 and is unlikely to result in a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, or affect light and air available to neighboring properties. The Board also concludes that the rear deck addition planned by the Applicant will be in harmony with the general purpose and intent of the Zoning Regulations by promoting the residential use of the property, and will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations. The Board credits the report submitted in this case by the Architect of the Capitol in concluding that the requested special exception is consistent with the Capitol Interest Overlay District and compatible with the present and proposed development of the neighborhood.

The Board is required to give “great weight” to the recommendation of OP. In this case, the Board concurs with the recommendation of OP to grant the requested special exception as consistent with the requirements of the Zoning Regulations. The Board is also required to give “great weight” to the issues and concerns raised by the affected ANC. Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001)). In this case, ANC 6B recommended approval of the requested special exception based on the ANC’s conclusion that the Applicant’s project would have a “negligible” impact on light, air, and privacy. The Board concurs with the recommendation of ANC 6B, which did not raise any issues or concerns with the Applicant’s proposal.

Based on the findings of fact and conclusion of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for a special exception under § 223 of the Zoning Regulations to allow construction of a second-level rear deck addition to an existing two-family dwelling not meeting the requirements for maximum lot occupancy under § 403.2, minimum lot area under § 401, or enlargement of a nonconforming structure under § 2001.3 in the CAP/R-4 District at 149 D Street, S.E. (Square 734, Lot 74). Accordingly, it is **ORDERED** that the application is **GRANTED**, subject to plans - Exhibit No. 6, as revised by Exhibit No. 33 in the record.

VOTE: **4-0-1** (Lloyd J. Jordan, Nicole C. Sorg, Jeffrey L. Hinkle, and Michael G. Turnbull voting to APPROVE; one Board seat vacant)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: March 8, 2013

BZA APPLICATION NO. 18393**PAGE NO. 7**

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Appeal No. 18460 of Ginia L. Avery, et al., pursuant to 11 DCMR §§ 3100 and 3101, from a decision by the Department of Consumer and Regulatory Affairs to issue Building Permit No. B1202925 allowing the construction of a retail store in the C-3-A and the R-5-A Districts at premises 5929 Georgia Avenue, N.W. (Square 2986, Lot 38).

HEARING DATE: October 16, 2012

DECISION DATE: October 16, 2012

DISMISSAL ORDER

PRELIMINARY MATTERS

On August 10, 2012, Ginia L. Avery and five other individuals (“Appellant”) filed this appeal with the Board of Zoning Adjustment (“BZA” or “Board”). Appellant appealed the granting of Building Permit No. B1202925 (“Permit”) by the D.C. Department of Consumer and Regulatory Affairs (“DCRA” or “Appellee”). That building permit authorized the construction of a new retail building to be leased to Wal-Mart (“Project”) at premises 5929 Georgia Avenue, N.W. (“Property”). The Appeal concerns the Large Tract Review process set forth in Chapter 23, of Subtitle B, of Title 10 of the District of Columbia Municipal Regulations. The Appeal notes that one of the goals of the Chapter is to carry out the policies of the District Elements of the Comprehensive Plan for the National Capital. The Appellant asserts that the Project fails to carry out several of those goals and therefore the building permit should not have been issued. Motions to dismiss were filed by the Appellee and the property owner¹, which argued that because the Large Tract Review process is not included in the Zoning Regulations, the Board has no authority to hear any appeal of a building permit issued as a result of a purported flaw in the review.

On October 16, 2012, after deliberating upon the merits of the motions to dismiss and the opposition thereto filed by the Appellant, the Board dismissed the appeal for lack of jurisdiction by a vote of 3-0-2.

Notice of Appeal and Notice of Hearing. By memoranda dated August 13, 2012, the Office of Zoning (“OZ”) provided notice of the appeal to DCRA, and specifically to the Zoning Administrator at DCRA, the D.C. Office of Planning, Advisory Neighborhood Commission (“ANC”) 4B, the ANC within which the subject property is located, Single Member District 4B04, the Councilmember for Ward 4, and the owner of the subject property. On September 11,

¹ A motion to dismiss was also filed by Wal-Mart along with a motion to intervene. Because the Board reached the issue of its jurisdiction, it did not rule on the motion to intervene and therefore did not consider Wal-Mart’s motion to dismiss.

BZA APPEAL NO. 18460**PAGE NO. 2**

2012, the Office of Zoning mailed a Notice of Public Hearing to ANC 4B and on September 12, 2012, the Office of Zoning mailed a Notice of Public Hearing to the Appellant.

Party Status. Consistent with 11 DCMR § 3199.1, the parties in this proceeding were the Appellant, DCRA, ANC 4B, and the owner of the subject property.

ANC Report. ANC 4B filed a letter with the Board dated October 1, 2012 indicating that, at a regularly scheduled, properly noticed meeting, with a quorum present, the ANC voted to adopt a resolution in support of the appeal. (Exhibit 22.) The ANC's resolution notes that the appeal is based on the Comprehensive Plan and the Upper Georgia Avenue Great Streets Redevelopment Plan and that the Project appears to be inconsistent with these plans and will have adverse impacts. (Exhibit 22.)

FINDINGS OF FACT

1. The Property is located in the C-3-A and R-5-A Zone Districts. All of the proposed building improvements will be located in the C-3-A zone where the project is permitted as of right. (Exhibit 24.)
2. The Office of Planning promulgated regulations to establish a coordinated interagency review process in the District of Columbia of certain types of projects before an application for a building permit is filed. This coordinated review is known as the Large Tract Review process and is set forth in Chapter 23 of Subtitle B of Title 10 of the District of Columbia Municipal Regulations ("DCMR").
3. The parties agree that the Project was subject to the Large Tract Review process.
4. The Office of Planning issued a memorandum dated August 10, 2011, indicating that its review concluded that the Project addressed the goals of the Large Tract Review regulations and would not be inconsistent with the Comprehensive Plan. (Exhibit 24.)
5. On or about June 13, 2012, DCRA issued Building Permit No. B1202925 for the Project.
6. On August 10, 2012, the Appellant appealed the issuance of the building permit claiming that DCRA erred in granting the Permit because the Project violates the goals of the Comprehensive Plan and the Upper Georgia Avenue Great Streets Development Plan. (Exhibits 1-8.)

CONCLUSIONS OF LAW

Section 8 of the Zoning Act of 1938 authorizes the Board to hear appeals of any decision of any administrative officer or body "in the carrying out or enforcement" of any Zoning Regulation. D.C. Official Code § 6-641.07(g)(1) (2008 Supp.). Such appeals may be taken "by any person

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aggrieved . . . by any decision of the [Department of Consumer and Regulatory Affairs] granting . . . a building permit . . . *based in whole or in part upon any zoning regulation.*" D.C. Official Code § 6-641.07(f) (emphasis added). Therefore, the Board has no authority to hear an appeal that is not based to some degree upon an interpretation of a zoning regulation. *See Appeal No. 18239 of ANC 6A*, 59 DCR 1655 (2011) ("As the Board has held several times, the Board has no authority to hear an appeal that is not based upon an interpretation of a zoning regulation").

Here, the Appellant claims error in DCRA's issuance of Building Permit No. B1202925 because the Project purportedly does not carry out the policies of the District Elements of the Comprehensive Plan for the National Capital and therefore was not consistent with one of the stated goals of the Large Tract Review process.

The Large Tract Review process was adopted as a regulation by the Office of Planning. It therefore cannot be considered a Zoning Regulation, because those can only be adopted by the Zoning Commission. *See* D.C. Official Code § 6-621.01 (e) ("The Zoning Commission shall exercise all the powers and perform all the duties with respect to zoning in the District as provided by law") (made part of the District Charter through § 492 of the Home Rule Act.) All of the Zoning Regulations are set forth in Title 11 of the DCMR and in no other Title. *See* 11 DCMR 100.5 ("The regulations in this title shall be known and may be cited by the short title of the "Zoning Regulations of the District of Columbia."). Since the Large Tract Review Process and the Comprehensive Plan were not adopted by the Zoning Commission, neither can be considered Zoning Regulations and any error regarding their interpretation is beyond this Board's jurisdiction to consider. The District of Columbia Court of Appeals has consistently held that "The Board's limited function is to assure that the regulations adopted by the Zoning Commission are followed; it has "no authority to implement the Comprehensive Plan." *French v. Board of Zoning Adjustment*, 658 A.2d 1023, 1034 (D.C. 1995) quoting *Tenley & Cleveland Park Emergency Committee v. District of Columbia Board of Zoning Adjustment*, 550 A.2d 331, 341 (D.C. 1988), *cert. denied*, 489 U.S. 1082, 109 S.Ct. 1539, 103 L.Ed.2d 843 (1989).

ANC 4B, to whose issues and concerns the Board must give great weight, pursuant to D.C. Official Code § 1-309.10(d) (2001), adopted a resolution in support of the appeal. Because the Board did not reach the merits of the appeal, the ANC's issues and concerns are not legally relevant. *See, Concerned Citizens of Brentwood v. District of Columbia Bd. of Zoning Adjustment*, 634 A.2d 1234, 1241 (D.C. 1993) (ANC's views as to whether variance should be granted became irrelevant once the BZA concluded that the use was permitted as a matter of right.)

It is hereby **ORDERED** that this appeal be **DISMISSED**.

VOTE: **3-0-2** (Lloyd J. Jordan, Jeffrey L. Hinkle, and Peter G. May to Dismiss; Nicole C. Sorg not present, not participating; one Board seat vacant.)

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BY ORDER OF THE BOARD OF ZONING ADJUSTMENT

A majority of the Board members has approved the issuance of this order.

FINAL DATE OF ORDER: March 11, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18507 of Kiddie Academy Child Development, pursuant to 11 DCMR § 3104.1, for a special exception for a child development center (20 children and five staff) under § 205, in the R-3 District at premises 2739 Knox Terrace, S.E. (Square 5728, Lot 37).¹

HEARING DATE: March 5, 2013

DECISION DATE: March 5, 2013

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum, dated November 6, 2012, from the Zoning Administrator, which stated that Board of Zoning Adjustment (“Board” or “BZA”) approval is needed for a special exception, to establish the use of a “Child Development Center for (25) twenty-five children from ages (3) three months to (12) twelve years old and (6) six staff” in a R-3 Zone, per § 3104.1. (Exhibit 5.)

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 8B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8B, which is automatically a party to this application. ANC 8B did not file a report, nor did the ANC attend the hearing or testify. At the hearing, the Applicant testified that she had coordinated with the ANC and that the single member district lives across the street and had signed the petition in support of the application.

The Office of Planning (“OP”) submitted a timely report recommending approval of the application, subject to seven conditions. (Exhibit 27.) By its letter, dated January 22, 2013, the Office of State Superintendent of Education (“OSSE”) recommended that the application be approved. (Exhibit 24.) The District Department of Transportation (“DDOT”) also submitted a letter of no objection dated February 26, 2013. (Exhibit 26.)

A petition of support for the application that was signed by 36 neighbors, including the adjoining property owner, was submitted for the record. (Exhibit 7.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under § 205. No parties appeared at the public hearing in

¹ The Applicant testified that the request for approval for 20 children is as yet an estimate subject to approval by D.C. government licensing authorities.

BZA APPLICATION NO. 18507**PAGE NO. 2**

opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 205 that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application be **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 9 AND THE FOLLOWING CONDITIONS:**

1. Approval shall be for **FIVE (5) YEARS** from the effective date of this order.
2. The hours of operation shall be from 7:00 a.m. to 6:00 p.m.
3. The number of enrolled children as allowed by the District of Columbia government shall not exceed 20.
4. The number of staff shall not exceed five.
5. Outdoor activities shall be supervised and conclude by 6:00 p.m.
6. Staff shall monitor the dropping off and picking up of the children.
7. The Applicant shall provide one off-street parking space on the property.

VOTE: **4-0-1** (Nicole C. Sorg, S. Kathryn Allen, Lloyd J. Jordan, and Michael G. Turnbull to APPROVE; Jeffrey L. Hinkle, not present or participating.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: March 12, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

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PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18508 of Howard University, pursuant to 11 DCMR §§ 3104.2 and 3103.2, for a variance from the off-street parking requirements under subsection 2101.1, and a special exception from the penthouse setback requirements under subsections 411.11 and 840.3(b), to allow the construction of an interdisciplinary research building in the C-M-3 District at premises 2201 Georgia Avenue, N.W. (Square 3065, Lot 833).

HEARING DATE: March 5, 2013

DECISION DATE: March 5, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 1B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1B, which is automatically a party to this application. ANC 1B submitted a report in support of the application. The Office of Planning (“OP”) also submitted a report in support of the application. The Department of Transportation filed a report of no objection to the application. The Pleasant Plains Civic Association and the LeDroit Park Civic Association submitted letters in support of the application. The Georgia Avenue Community Development Task Force also supported the application.

Variance

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for a variance from § 2101.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking a variance from § 2101.1, the applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

BZA APPLICATION NO. 18508

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Special Exception

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 411.11 and 840.3(b), that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (Pursuant to Exhibit 21 – Plans) is hereby **GRANTED**.

VOTE: 3-0-2 Michael G. Turnbull, S. Kathryn Allen and Lloyd J. Jordan to Approve. Jeffrey L. Hinkle not present not voting. Nicole C. Sorg having recused herself.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: March 7, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE

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BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18509 of Angela Desmond, pursuant to 11 DCMR § 3104.1, for a special exception for a rear addition to an existing one-family detached dwelling under § 223, not meeting the side yard requirements under § 405, in the R-1-B District at premises 4735 Tilden Street, N.W. (Square 1528, Lot 51).

HEARING DATE: March 5, 2013

DECISION DATE: March 5, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 3D and to owners of property within 200 feet of the site as well as to the Office of Planning (“OP”). The site of this application is located within the jurisdiction of ANC 3D, which is automatically a party to this application. ANC 3D submitted a timely report in support of the application. The ANC’s report indicated that at a regularly scheduled, properly noticed meeting held on February 6, 2013, with a quorum present, the ANC voted 9:0 in support of the application. (Exhibit 22.)

The Office of Planning (“OP”) submitted a timely report dated February 26, 2013 in support of the application. (Exhibit 25.) The District Department of Transportation (“DDOT”) submitted a letter of “no objection” to the application. (Exhibit 24.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception relief under § 223 (§ 405) of the Zoning Regulations. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223 (§ 405), that the requested relief can be granted, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

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Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO the plans at Exhibit 9.**

VOTE: 4-0-1 (Lloyd J. Jordan, S. Kathryn Allen, Nicole C. Sorg, and Michael G. Turnbull to Approve; Jeffrey L. Hinkle, not present, nor participating.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this summary order.

FINAL DATE OF ORDER: March 8, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF

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COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18510 of Robert A. Johnson, pursuant to 11 DCMR § 3104.1, for a special exception for a detached accessory garage in the rear yard of an existing one-family row dwelling under § 223, not meeting the lot occupancy (§ 403) requirements in the R-4 District at premises 721 10th Street, N.E. (Square 959, Lot 806).¹

HEARING DATE: March 5, 2013

DECISION DATE: March 5, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6.)

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 6A and to owners of property within 200 feet of the site as well as to the Office of Planning (“OP”). The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. ANC 6A submitted a timely report in support of the application. The ANC’s report indicated that at a regularly scheduled, properly noticed meeting held on February 14, 2013, with a quorum present, the ANC voted 7-0-1 in support of the application. (Exhibit 25.)

The Office of Planning (“OP”) submitted a timely report dated February 14, 2013, in support of the application. (Exhibit 26.) The District Department of Transportation (“DDOT”) submitted a letter of “no objection.” (Exhibit 22.)

Letters of support from two adjoining neighbors, Ryan J. Loughtin, 719 10th Street, N.E., and Dan Goldburt, 723 10th Street, N.E., were provided. (Exhibit 7.) The Capitol Hill Restoration Society also submitted a letter of support for the record. (Exhibit 28.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception relief under § 223 (§ 403) of the Zoning Regulations. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

¹ Based on the Office of Planning’s characterization of the relief in the case (Exhibit 26), the caption for the case was slightly altered to better reflect the construction planned. The relief remains the same.

BZA APPLICATION NO. 18510

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Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223 (§ 403), that the requested relief can be granted, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO the plans at Exhibit 9.**

VOTE: 4-0-1 (Lloyd J. Jordan, Michael G. Turnbull, Nicole C. Sorg, and S. Kathryn Allen to Approve; Jeffrey L. Hinkle, not present or participating.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this summary order.

FINAL DATE OF ORDER: March 11, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE

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CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18512 of Ronald J. and Karen K. Thomas, pursuant to 11 DCMR § 3104.1, for a special exception for a rear screen porch addition to a one-family semi-detached dwelling under section 223, not meeting the lot occupancy (section 403) and side yard (section 405) requirements in the R-3 District at premises 3014 P Street, N.W. (Square 1257, Lot 841).

HEARING DATE: March 12, 2013

DECISION DATE: March 12, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 2E, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2E, which is automatically a party to this application. ANC 2E submitted a letter in support of the application. The Office of Planning (“OP”) submitted a report and testified at the hearing in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under subsection 223. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 10– Plans) be **GRANTED**.

VOTE: **5-0-0** (Lloyd J. Jordan, S. Kathryn Allen, Anthony J. Hood, Nicole C. Sorg, and Jeffrey L. Hinkle to APPROVE.)

BZA APPLICATION NO. 18512

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BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

The majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: March 12, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING
Z.C. Case No. 05-28J
(CI GD Parkside 7, LLC – Second-Stage PUD @ Square 5041, Lot 808
March 8, 2013

THIS CASE IS OF INTEREST TO ANC 7D

On March 4, 2013, the Office of Zoning received an application from City Interests and Gilbane Development in a joint venture as CI GD Parkside 7, LLD (the “Applicant”) for approval of a second-stage PUD for the above-referenced property.

The property that is the subject of this application consists of Lot 808 in Square 5041 in Northeast Washington, D.C. (Ward 7), which is located on property bounded by Foote Street, N.E. (west), Parkside, N.E. (north), Franklin Delano Roosevelt, N.E. (east), and Kenilworth Terrace, N.E. (south).

The second-stage PUD is part of a larger PUD that consists of approximately 15.5 acres of land and will consist of a series of residential, mixed-use, commercial, and retail buildings. This second-stage proposal is for a residential building consisting of 185,000 square feet with a maximum height of 81 feet, four inches. It will also have 72 parking spaces in a below-grade parking garage.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://.dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 11-17
Zoning Commission Case No. 11-17
Adams Morgan Church Hotel, LLC
(Consolidated Planned Unit Development and Related Zoning Map Amendment for
Square 2560, Lots 127, 872, and 875)
February 25, 2013

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held public hearings on September 6, September 13, October 10, and October 22, 2012, to consider amended applications from Adams Morgan Church Hotel, LLC, (along with successor entity Adams Morgan Hotel Owner, LLC, the "Applicant") for consolidated review and approval of a planned unit development ("PUD") and related Zoning Map amendment from the RC/C-2-B and R-5-B Zone Districts to the RC/C-2-B Zone District for properties in Square 2560 known as Lots 127, 872, and 875. The Applicant had initially requested that the properties be re-zoned to C-2-B. The Commission considered the applications pursuant to Chapters 1, 24, and 30 of the Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearings were conducted in accordance with the provisions of § 3022 of the Zoning Regulations. For the reasons stated below, the Commission hereby approves the Applications with conditions.

FINDINGS OF FACT

The Applications, Parties, and Public Hearing

1. On July 29, 2011, Adams Morgan Church Hotel, LLC, filed applications on behalf of First Church of Christ, Scientist, Washington, D.C. ("First Church"), owner of Lots 872 and 875 in Square 2560, and on behalf of Glancer Properties, LLC ("Glancer"), owner of Lot 127 in Square 2560 (Lots 127, 872, and 875, collectively, the "Property") for consolidated review and approval of a PUD and related Zoning Map amendment from a mix of RC/C-2-B and R-5-B to the C-2-B Zone District for the Property (collectively, the "Applications") to facilitate the preservation and redevelopment of the century-old First Church Building in the Adams Morgan neighborhood into the centerpiece and main entrance of a boutique hotel (the "Project").
2. By report dated November 4, 2011, the District of Columbia Office of Planning ("OP") recommended that the Commission schedule a public hearing for the Applications to allow the Commission and the community the opportunity to comment upon the appropriateness of the height, design, and other items raised in the OP report.
3. At its November 14, 2011 public meeting, the Commission determined to schedule the Applications for public hearing.

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4. The Applicant filed its supplemental statement and request for hearing date with the Office of Zoning on April 30, 2012, and its prehearing statement on August 17, 2012, which prehearing statement included a revised Project design reducing the overall building height of the Project from approximately 92 feet to 81 feet.
5. On August 27, 2012, OP submitted a public hearing report to the Commission indicating compliance of the revised Project with certain elements of the District of Columbia Comprehensive Plan and Zoning Regulations yet expressing concerns of OP with regard to consistency of the Project with certain other aspects, particularly building height. OP concluded that at the 81 foot height then proposed by the Applicant, OP could not recommend approval of the Applications.
6. On August 29, 2012, Advisory Neighborhood Commission ("ANC") 1C, within whose boundaries the Property is located, submitted a letter and resolution in support of the Applications and detailing its position regarding the community benefits offered as part of the Project.
7. The District of Columbia Department of Transportation ("DDOT") submitted a memorandum to the Commission on August 29, 2012, along with a request to the Commission to waive the 10-day filing requirement of 11 DCMR § 3012 of the Zoning Regulations. The DDOT memorandum recommended approval of the Applications subject to certain conditions.
8. On September 4, 2012, the Applicant submitted further revised designs for the Project including a further reduction in the height of the Project to the roof not to exceed 72 feet measured from Euclid Street, N.W., and requesting that the Property be rezoned to RC/C-2-B, thereby making the entire Property subject to the Reed-Cooke Overlay. The Applicant also submitted a copy of an agreement executed by the Applicant and the Reed-Cooke Neighborhood Association ("RCNA"), the citizens association whose boundaries include the Property. Pursuant to the terms of that agreement, RCNA withdrew its party status application in opposition to the Applications and stated its support for the Project. As part of its submission, the Applicant requested that the Commission waive its rule requiring that no application be modified less than 20 days prior to public hearing. (11 DCMR §3013.8.)
9. OP submitted a supplemental report dated September 6, 2012, acknowledging the revisions made to the design of the Project and supporting the agreement reached between the Applicant and RCNA to address the consistency of the Project with the Comprehensive Plan and Zoning Regulations.
10. On September 5 and September 6, 2012, respectively, the Commission received letters of support for the Project from At-Large Councilmember Vincent Orange and from At-

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Large Councilmember Michael Brown and Deputy Mayor for Planning and Economic Development, Victor Hoskins.

11. The Commission acknowledges receipt into the Record of letters and petitions from individuals and organizations in support of the Applications as well as letters and petitions from those in opposition.
12. The Commission held a public hearing for the Applications on September 6, 2012. As a preliminary matter, the Commission considered the Applicant's September 4, 2012 request for waiver of the 20-day filing requirement regarding the revised drawings filed for the Project along with its agreement with RCNA. The Commission determined to continue the public hearing to September 13, 2012, in order to allow the Commission and interested members of the public to review revisions to the design of the Project submitted by the Applicant to the Commission on September 4, 2012. The Commission also directed the Applicant to make efforts to provide copies of the information to interested community stakeholders, including impacted Latino and Spanish-speaking communities.
13. On September 10, 2012, the Applicant submitted an additional package of materials, in English and Spanish, along with further updated Project drawings, to several community organizations and individuals who had indicated interest to the Commission regarding the Project.
14. At the September 13 continuation hearing, the Commission heard testimony from Ward 1 Councilmember Jim Graham in support of the Applications, and also from the Applicant, including representatives of First Church, the project architects and expert witnesses in land use and zoning, traffic analysis and management, and project economics. As a preliminary matter, the Commission considered multiple party status applications and granted party status to the Kalorama Citizens Association ("KCA") and Champlain Street Neighbors: Hotel Study Group ("CSN"). At the conclusion of the Applicant's presentation, the Applicant answered questions from the Commission and cross-examination from KCA. The hearing was continued to October 10, 2012, while the Commission directed the representatives of CSN to provide additional materials to support that organization's request for party status.
15. At the second continuation hearing, held October 10, 2012, the Commission determined to continue to allow CSN to participate as a party, and CSN cross-examined representatives of the Applicant and its expert witnesses. Testimony was also received from OP and DDOT in support of the Applications, followed by cross-examination of OP and DDOT by representatives of KCA and CSN.
16. A third continuation hearing was held on October 22, 2012. As a preliminary matter, the Commission denied a request by KCA and CSN to continue the proceedings because no

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authorized representative of ANC 1C was available for cross-examination. The Commission denied the request because there is no requirement that the ANC provide oral testimony. Pursuant to the ANC Act, the ANC submitted a written report, which the Commission must receive into the record and give “great weight.” Although there may be circumstances when the Commission would be required to strike written testimony when there is no opportunity to cross examine the author, the Commission does not believe that would be appropriate in this instance because the Commission must by law accept the ANC report. At this hearing, the Commission heard testimony from KCA and CSN as parties in opposition to the Applications. The Commission also heard testimony from a panel of persons in support of the Applications as well as a panel of persons opposed to the Applications, including individual members of CSN. The Commission determined to leave the record open to accept written rebuttal testimony from the Applicant, along with any response from the parties. The record was also left open for the Applicant to submit its closing statement and materials and for CSN to submit an exact but more legible replacement copy of its submission at Exhibit 141 of the record. For all other purposes, the record was closed. The Applicant provided the referenced materials on October 31, 2012, as the District of Columbia government offices were closed on October 29 and 30, 2012 as a result of a weather emergency. Included among the Applicant's post-hearing materials was an updated traffic analysis conducted by its expert witness on traffic analysis and management, which addressed late-night vehicular and pedestrian traffic in the immediate vicinity of the Project. The conclusion of the analysis was that the late-night traffic in the neighborhood did not exceed peak-hour calculations that had been undertaken, and therefore the Project would operate at an acceptable level of service at both peak hours and late-night hours.

17. On October 31, 2012, OP submitted a supplemental report in response to traffic issues raised by the opposition parties. (Exhibit [“Ex.”] 197). The report indicated that OP was deferring to DDOT, which would be providing a separate analysis.
18. On November 1, 2012, DDOT submitted a supplemental report (Ex.196), which is discussed in Finding 66. The Applicant submitted a response on November 7, 2012, which is discussed in Finding 67. (Ex. 198.)
19. On November 7, 2012, KCA submitted a response to the Applicant’s rebuttal testimony, and draft conditions for the Commission to include in this order. (Ex. 201, 202.)
20. On November 7, 2012, CSN submitted what it described as its preliminary post-hearing submission, and a motion requesting that the Commission continue to leave the record open so it could submit its response to the Applicant’s rebuttal and a more extensive post-hearing submission. (Ex. 199, 200.) CSN explained that it was hampered in providing these submissions because neither the Applicant’s rebuttal nor the most recent OP and DDOT reports had been translated into Spanish. On November 8, 2012, the Applicant

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submitted a response to CSN's motion noting that the Commission had not directed it to submit a Spanish language translation of its rebuttal. (Ex. 203.) The Applicant submitted Spanish language translations of its rebuttal and other post-hearing documents on November 9, 2012. (Ex. 204.) On November 15, 2012, CSN submitted its "secondary" post-hearing submission. (Ex. 205.)

21. On November 19, 2012, CSN filed a motion requesting that the Commission postpone its deliberations on whether to take Proposed Action based upon a "recent signal that City officials want to meet and meaningful[ly] discuss the remaining issues." (Ex. 206.) The "signals" referred to were emails expressing a willingness to meet in response to requests to do so. The Applicant filed an opposition to the motion noting that the record was now closed and that "the assertion by Mr. Otten that he is pursuing certain audiences outside the Commission's public hearing process is not a basis upon which the Commission should delay consideration of this application. (Ex. 207.) Such would be the case in almost all applications before the Commission in which there is opposition."
22. CSN filed a reply to the Applicant's opposition even though the Commission's rules do not authorize such submissions (Ex. 208.)
23. At its November 19, 2012 public meeting, the Commission considered whether to re-open the record to receive the additional post-hearing filings, and CSN's motion to postpone the decision as preliminary matters. The Commission re-opened the record to receive all the post-hearing filings, except the CSN reply submission dated November 20, 2012 and marked as Exhibit 208. As noted, the Commission's rules do not permit such pleadings.
24. The Commission denied CSN's motion requesting postponement of the deliberations because the public has had ample opportunity to present their views to the Commission over numerous hearings, the record had been closed, and the matter was ripe for proposed action. Should it turn out that District officials wished to alter their support for the project, there would be time prior to final action for their views to be expressed
25. The Commission then deliberated and took proposed action to approve the Applications with conditions.
26. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The Executive Director of NCPC, by delegated action dated November 29, 2012, found that the Applications would not be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital, nor would it adversely affect any other federal interest. (Ex. 213.)

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27. The Commission took final action to approve the Applications at its public meeting on February 25, 2013. The Commission simultaneously took final actions to adopt text amendments to the Overlay that authorized it to approve a PUD notwithstanding certain of the Overlay's use and area limitations.

The Property and Surrounding Area

28. The Property is located in Square 2560 in the Adams Morgan neighborhood of Ward 1 in Northwest Washington. Square 2560 is a comparatively long square bounded generally on the north by Columbia Road and Euclid Street, N.W., on the east by Champlain Street, N.E., on the west by 18th Street, N.W., and on the south by Kalorama Road, N.W.
29. The Property consists of Lots 127, 872, and 875 in the northernmost portion of Square 2560. Lots 872 and 875 are owned by the First Church and contain a combined lot area of approximately 29,864 square feet. Lot 872 is improved with the First Church's century-old sanctuary (the "Church Building"), for which a District of Columbia landmark application is currently pending with the District's Historic Preservation Review Board ("HPRB"). Lot 875, to the immediate south of Lot 872, is vacant and utilized for surface parking. The southernmost of the three parcels comprising the Property is Lot 127, measuring approximately 12,419 square feet in lot area and improved with a four-story commercial building. Lot 127 is owned by Glancer. The existing commercial building on Lot 127 will be razed as part of the Project.
30. The total lot area of the Property is approximately 42,283 square feet. This land area exceeds the minimum area requirement of 15,000 square feet for a PUD in the proposed C-2-B Zone District established in 11 DCMR § 2401.1(c).
31. The Property fronts to its north along Euclid Street and Columbia Road, N.W., with a small triangular reservation known as Unity Park located immediately to the Property's north, framed by the intersections of Columbia, Euclid, and Champlain Streets.
32. Abutting to the south of the Property is property (Lot 809) that is currently improved with a two-story row building. South of that property are a series of taller, four- and five-story apartment buildings.
33. East of the Property, across Champlain Street, N.W., is the six-story, 70-foot-tall Cortland apartment building at the intersection of Champlain and Euclid Streets, and to its south, a series of two-story apartment buildings, partially exposed with basements and attics, set back approximately 25 feet from the property line.
34. To the west of the Property, across a roughly 15- to 20 foot-wide public alley cutting through Square 2560 in a roughly north-south direction, are a series of buildings fronting

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along 18th Street, N.W., one of two commercial axes of the Adams Morgan neighborhood, the other being Columbia Road.

35. According to the Comprehensive Plan's Future Land Use Map, the Property is designated for a mixture of Low-Density Commercial and Moderate-Density Residential uses, as are the commercial properties located to the west along 18th Street and to the north along Columbia Road, which are zoned C-2-B.
36. The Woodley Park/National Zoo/Adams Morgan Metrorail Station (Red Line), is located approximately 7/10 of a mile to the northwest of the Property, and the Columbia Heights Metrorail Station (Green/Yellow Lines) is located approximately 8/10 of a mile to the east of the Property. The Property and immediate neighborhood are served by a number of Metrobus and Circulator routes.

Existing and Proposed Zoning

37. The Property is split-zoned, with Lot 872, the lot which contains the Church Building, zoned R-5-B, and the two southern lots, Lots 875 and 127, zoned C-2-B. These two commercially-zoned lots are also subject to the provisions of the Reed-Cooke (RC) Overlay District set forth in Chapter 14 of the Zoning Regulations.
38. The R-5 Zone Districts are general residence districts designed to allow flexibility of design by permitting in a single district all types of urban residential development, including single family dwellings, semi-detached houses, row dwellings, and apartments, if they conform to certain established height, density, and area requirements. The R-5 Zone Districts also permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from more restrictive residential districts.
39. The maximum height permitted in the R-5-B Zone District is 50 feet. Residential development may achieve a maximum density of 1.8 floor area ratio ("FAR").
40. The underlying C-2-B Zone District is designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core, and permits high-density residential and mixed-use development. The C-2-B Zone District is a general commercial district, permitting a broad range of retail, service and office uses, hotels, residential uses (single and multi-family), and many institutional uses. Height in the C-2-B Zone Districts is permitted to a maximum of 65 feet with no limit on the number of stories. The maximum height for a PUD in the C-2-B Zone District is 90 feet. A total building density of 3.5 FAR is permitted, however not more than 1.5 of that amount may be devoted to uses other than residential uses. A PUD in the C-2-B Zone District is permitted a maximum density of 6.0 FAR, of which no more than 2.0 may be non-residential. In the computation of gross

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floor area for a hotel, guestroom areas, and service areas are charged against the floor area ratio for “apartment house or other residential use,” as specified in 11 DCMR § 771.1 through 771.3. (11 DCMR § 771.7.)

41. The Reed-Cooke (“RC”) overlay provides a mechanism to protect existing residential uses and encourage small-scale business development uses while at the same time maintaining heights and densities at appropriate levels. Maximum height permitted in the RC Overlay shall not exceed 40 feet plus roof structures. (11 DCMR § 1402.1.) Nor may a PUD exceed the matter of right height, bulk, and area requirements of the underlying district. (11 DCMR § 1402.2.) Further, pursuant to 11 DCMR § 1401.1 and 1401.2, the proposed hotel use, and the accessory restaurant and cocktail lounge uses, are prohibited in the RC Overlay.
42. As noted, the Commission, at the same time as it took final action to approve this PUD also took final action in Z.C. Case No. 12-17 to approve conforming amendments to the Overlay. Those amendments authorized the Commission to grant this PUD notwithstanding the Overlay’s current use and area limitations. The notice of final rulemaking for Z.C. Case No. 12-17 was published simultaneously with this order. The Commission notes that the Applicant and RCNA undertook discussions regarding the potential appropriateness of the Project within the RC Overlay, leading to an executed agreement which contemplates these amendments. The agreement included restrictions on the restaurant and bar uses, which were included in the adopted amendments. The Commission also makes those restrictions a condition to its approval of this order and also included a condition, agreed to by the Applicant, to prohibit any nightclub use.

Nature of Project and Consolidated PUD

43. The Applications before the Commission are for consolidated review of a PUD for a full-service boutique hotel, which has as its centerpiece the restoration and long-term preservation and adaptive reuse of the century-old Church Building, an aging and largely unutilized community landmark at the core of the Adams Morgan neighborhood. The Project contemplates the renovation of the Church Building as the main entrance, lobby and public space for the hotel, whose guest rooms, indoor pool, health club, and four levels of below-grade parking will be focused in a seven-story masonry addition behind and to the south of the Church Building.
44. The approximately 68-foot-tall Church Building will be preserved in its entirety, restored and modernized. Guests will enter the hotel along Euclid Street, through the 20-foot-tall main doors. The Church Building will be transformed into a central lobby and public space, with column-free spans and 60-foot ceiling heights. A restaurant is proposed for the third floor mezzanine of the Church Building, and meeting rooms will be contained in the ground floor, immediately beneath the main lobby and reception area.

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45. In the new rear addition to the Church Building, the ground floor will contain a supplemental registration area, additional meeting rooms, an indoor pool and juice bar, the loading dock and service areas, as well as the entrance to the approximately 4,000 square community center, which is located on the P1 level. The health club and spa will be located in between these levels. Approximately 220 hotel guest rooms will be located on the seven floors above, roughly configured in a south facing U-shape around the indoor pool.
46. The Property will be extensively landscaped, especially in the areas surrounding the Church Building, and the existing fencing will be removed. Several green roofs are proposed at various levels of the new construction.
47. A total of 132 parking spaces will be provided in four levels below the new addition, including six spaces devoted to car-sharing services and two spaces serving electric charging stations. The parking facility will be valet-serviced. Bicycle parking facilities will also be provided in the parking area.
48. The Property will contain approximately 42,283 square feet of land area and approximately 168,858 square feet of gross floor area, resulting in a total building density of approximately 3.99 FAR, all of which will be devoted to hotel and accessory uses. Building height will be 72 feet measured to the top of the roof from Euclid Street, N.W.
49. To accomplish this program, the Applicant seeks consolidated PUD review and approval for the Property and a related Zoning Map amendment from the existing RC/C-2-B and R-5-B to RC/C-2-B zoning.
50. The Applicant has indicated that it intends to pursue sustainability certification for the Project under the United States Green Building Council's LEED New Construction (NC) for Silver rating.

Development Incentives and Flexibility Requested

51. The Applicant requests the following areas of flexibility from the C-2-B requirements and PUD standards to facilitate development of the Project:
 - a. To provide multiple roof structures, of varying heights, not all of which meet the 1:1 setback requirement from the exterior walls of the building; and
 - b. To provide fewer than the required number of parking spaces pursuant to § 2101 of the Zoning Regulations (146 spaces are required; 132 spaces are proposed).
52. No additional zoning flexibility from the requirements of the Zoning Regulations was requested or granted.

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53. In addition, the Applicant is seeking the following areas of flexibility in the design of the project:
- a. To modify the design of the Project as required by the HPRB pursuant District of Columbia Law the Historic Preservation Act,¹ provided that those changes do not increase any of the areas of relief granted by the Zoning Commission;
 - b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the buildings;
 - c. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of materials;
 - d. To make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit; and
 - e. To vary the final selection of landscaping and vegetation types as proposed, based upon availability at the time of construction and finalization of site grading and utility plans.

Public Benefits and Project Amenities

54. The Commission finds that the following superior benefits and amenities will be created as a result of the Project:
- a. *Urban Design and Architecture.* The Project offers preservation and reuse of the pending landmark Church Building consistent with the specific direction of the Comprehensive Plan, contextual massing of new construction in relation to the Church Building and surrounding properties, high-quality design and materials compatible with surrounding vernacular, all undertaken in coordination with the HPRB and District's Historic Preservation Office. The Project also includes extensive landscaping, removal of the existing metal gate surrounding the Church Building and integration of common pathways and seating areas;

¹ The formal name of which is the Historic Landmark and Historic District Protection Act of 1978, D.C. Law 2-144; D.C. Official Code §§ 6-1101 *et seq.* (2008 Repl.).

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- b. *Site Planning and Efficient Land Utilization.* The Project makes efficient use of its shape and topography. The Project is also an efficient and economical use of land in that it will preserve and reuse the Church Building;
- c. *Effective and Safe Vehicular and Pedestrian Access and Transportation Management.* The Applicant has demonstrated that the Project will operate in an efficient and safe manner as a result of a number of initiatives that will be executed, including: enhancement to the current alley configuration through the grant of a non-exclusive surface easement across a portion of the Property; creation of a taxi queue along Euclid Street, N.W., upon public space permit approval; four levels of valet-only parking; implementation of a truck management plan; extensive landscaped pedestrian access; provision of car share, electric charging, and bicycle parking within the Project. Further, the Applicant has established a transportation demand management plan in coordination with DDOT;
- d. *Employment and Training Opportunities.* The PUD will provide an exceptional number of employment and training opportunities. Significant hotel and related permanent jobs are also anticipated at the site. To that end, the Applicant has entered into a First Source Employment Agreement with the District's Department of Employment Services ("DOES") in order to achieve the goal of utilizing District of Columbia residents for a significant percentage of the jobs created by the PUD. Applicant also has entered into a Certified Business Enterprise Agreement with District's Department of Small and Local Business Development ("DSLBD"). With regard to employment opportunities within the community, the Applicant has worked closely with a number of organizations to enhance this effort through focused hiring in Ward 1 and through a number of apprenticeship programs. To that end, the Applicant has entered into memoranda of understanding with: (1) the Adams Morgan Youth Leadership Academy ("AMYLEA") to provide administrative space within the Project as well as job opportunities for AMYLEA participants, who are youth and young adults residing in Ward 1; (2) the Sasha Bruce Youthworks to provide mentorship and construction internship opportunities in a variety of construction fields, including access to meeting space within the Project; (3) the Hospitality High School of Washington to coordinate with AMYLEA in identifying opportunities for internships in the hospitality industry, including access to meeting space within the Project; and (4) the Greater Washington Hispanic Chamber of Commerce to attract Latino-owned businesses in connection with the construction and operation of the Project, including hosting by the Applicant of subcontractor expositions and educational seminars and networking events – all with the goal of increasing employment opportunities within the immediate community and among underrepresented populations;

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- e. *Social Services/Facilities.* The Project addresses a number of important social services and facilities, including: the provision and fit-out of an approximately 4,000 square foot community center space within the Project for use by ANC 1C and community organizations; the refurbishing of Unity Park; requested materials and improvements to the following service providers within the immediate community – Marie Reed Learning Center, the HD Cooke Elementary School, Jubilee Jump Start, the Sitar Center, and For the Love of Children, as set forth in the Applicant’s agreement with RCNA included as Exhibit 78;
 - f. *Environmental Benefits.* The Project's environmental benefits include a sustainability commitment to qualify for LEED NC 2009 Silver rating, installation of multiple green roofs as part of the new construction, and extensive landscaping on the Property; and
 - g. *Uses of Special Value to the Neighborhood or the District as a Whole.* The PUD offers a host of uses not currently available to the Adams Morgan community. It will provide a hotel use, spa/health club use, improvement to the alley system in Square 2560 by virtue of the grant of a non-exclusive vehicular easement; improvements to grounds of the Marie Reed Learning Center; and an extensive residential public space maintenance in the form of trash patrol and general public maintenance across a sizeable area within the Adams Morgan community. As noted in several pieces of correspondence received in support of the Application, the hotel will also provide a daytime commercial anchor and catalyst in the Adams Morgan community.
55. The Commission finds that the PUD is acceptable in all proffered categories of public benefits and project amenities, and is superior in public benefits and project amenities relating to urban design and architecture, effective and safe vehicular and pedestrian access and transportation management, employment and training opportunities, social services and facilities, environmental benefits, and uses of special value to the neighborhood. These proffered benefits and amenities are appropriately balanced against the requested development incentives for the Project, namely a seven-foot increase over the matter of right permitted building height and approximately 20,719 square feet of density over the matter of right limit.

Compliance with Comprehensive Plan

56. The Commission finds that the Project advances the purposes of the Comprehensive Plan, is consistent with the Future Land Use Map, complies with the guiding principles in the Comprehensive Plan, and furthers a number of the major elements of the Comprehensive Plan, as follows:

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- a. *Land Use and Policy Maps.* The Applicant's proposal is consistent with the Future Land Use Map, which designates the Property as a mixture of Low-Density Commercial and Moderate-Density Residential uses, as are the commercial properties located to the west along 18th Street and Columbia Road;
- b. *Land Use Element.* The Project is consistent with a number of policies established in the Land Use Element, including promotion of corridor development, neighborhood infill development, maintaining and enhancing successful neighborhoods, promoting rehabilitation of underutilized older buildings, neighborhood beautification, and promotion of commercial centers;
- c. *Transportation Element.* The overall goal of the Transportation Element is to create a safe, sustainable, and efficient multi-modal transportation system that meets the access and mobility needs of District residents, the regional workforce and visitors, supports economic prosperity and enhances the quality of life for District residents. The Project supports this goal through its various transit-enhancement components, including the improvement to the public alley circulation, valet-only parking, and transportation demand management initiatives, including promotion of carshare and non-automotive transit options;
- d. *Environmental Protection Element.* The Environmental Protection Element addresses the protection, restoration, and management of the District's land, air, water, energy, and biologic resources. This element provides policies and actions on important issues such as energy conservation and air quality. The Project includes street tree planting and maintenance, landscaping, energy efficiency, and green engineering practices, and is therefore consistent with the Environmental Protection Element;
- e. *Economic Development Element.* The overall goal of the Economic Development Element is to strengthen the District's economy by sustaining its core industries, accommodating future job growth, foster the success of small businesses, revitalizing neighborhood commercial centers, improving resident job skills, and helping a greater number of District residents find and keep jobs in the regional economy. This element also includes extensive references to the importance of the hospitality sector to the District's economic health. As testified by the Applicant through its expert witness on project economics and confirmed through materials provided by representatives of the District of Columbia Council, the Deputy Mayor for Planning and Economic Development, and the Executive Director of the Adams Morgan Partnership Business Improvement District, the Project promises to serve as a major catalyst for economic development in Adams Morgan, instantly becoming the largest employer in the neighborhood and serving as a much needed daytime anchor in the neighborhood. Furthermore, as evidenced

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by the various memoranda of understanding the Applicant has executed with DOES, DSLBD, AMLYA, Hospitality High School, Sasha Bruce Youthworks, and others, the Applicant is committed to ensuring access to employment and training to residents in the affected neighborhood and those from traditionally underrepresented backgrounds;

- f. *Urban Design Element.* Through this element, the District seeks to enhance the beauty and livability of the city by protecting its historic design legacy, reinforcing the identity of its neighborhoods, harmoniously integrating new construction with existing buildings, and improving the vitality, appearance and security of streets and public spaces. To this end, the Project most definitely strengthens the defining visual quality of this community by preserving and adapting the century-old Church Building as the centerpiece of the new hotel. Further, as a result of the reduction in height of the new addition to 72 feet and through the creative stepbacks of the new construction from the Church Building, the Project provides a sensitive and appropriate infill development;
- g. *Historic Preservation Element.* Through the extensive preservation and reuse of the Church Building, which has anchored the main intersection of the neighborhood for the last century, undertaken in coordination with the HPRB and Historic Preservation Office, the Project satisfies the goals and policies of this element. The HPRB approved the height and massing of the Project at its October 25, 2012, public meeting by unanimous vote; and
- h. *Mid-City Area Element.* The Project satisfies a number of policies and actions of this element, including infill and rehabilitation of existing structures, and traffic management, but foremost, the Project addresses the specific direction of *Policy MC-1.2.6: Mid-City Historic Resources*, which calls for the protection of historic resources in the Mid-City area, with particular attention to neighborhoods that currently are not protected by historic designation, including the Church Building.

Office of Planning

57. By public hearing report dated August 27, 2012, and supplemental reports dated September 6, 2012 and October 29, 2012, and through testimony presented at the public hearings, OP expressed its support for the redevelopment of the Property and preservation of the Church Building. The initial public hearing report analyzed the Project at a height of approximately 81 feet and noted that while that proposal was supported by a number of Comprehensive Plan policies, the proposed height, which had been reduced from an earlier proposed height of 90 feet, remained not inconsistent with other Comprehensive Plan policies as well as the RC Overlay provisions of the Zoning Regulations.

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58. In its September 6, 2012, supplemental report, OP reviewed the further revised Project design for a 72-foot tall hotel along with the agreement reached between the Applicant and RCNA regarding amendment to the text of the RC Overlay to address the Project, mitigation of community impacts, and additional benefits for the Marie Reed Learning Center. OP indicated its support of the Project as revised and confirmed that the Project, as revised, is not inconsistent with the guidance of the Comprehensive Plan.
59. In its October 29, 2012 Supplemental Report, submitted on October 31, 2012, OP noted that at the October 22, 2012 public hearing, the Commission asked it and DDOT to provide responses to several items raised by the opposition in their written testimony. Because the testimony refers to traffic and transportation issues, OP deferred to DDOT's analysis of the points raised, which would be separately submitted.
60. The Commission concurs with OP's findings in support of the Applications.

Department of Transportation

61. By memorandum dated August 29, 2012, and through testimony presented at the public hearings, DDOT recommended approval of the Applications, with certain conditions. DDOT indicated that it has worked with the Applicant over the course of more than four years to review the Project and that the Applicant has been responsive and compliant to each DDOT request in order to avoid as many impacts as possible. DDOT has likewise participated in several public meetings to discuss potential impacts of the Project, including a meeting conducted by ANC 1C.
62. DDOT indicated that the Applicant coordinated with DDOT in the development of the traffic study scope and relevant study area intersections, and DDOT confirmed that the Applicant's methodology for evaluating existing and future traffic conditions is generally consistent with DDOT procedures. Further, at the request of the ANC and other community stakeholders, the Applicant engaged a third party transportation consulting company to undertake a peer review of the Applicant's traffic analysis. According to DDOT, that peer review, which has been presented to the Commission along with the Applicant's underlying traffic analysis (Ex. 34.), confirmed that the Applicant utilized best available scientific and technical information to support the conclusions in its analysis.
63. In its memorandum, DDOT indicated that the potential transportation impacts of the Project are minimal and capable of being mitigated, and that the Applicant has worked extensively with DDOT to address transportation and public space issues related to the Project. DDOT indicated support for the Applicant's proposed loading operations and Applicant's proposal to enhance circulation in the oddly-configured public alley by grant of a nonexclusive vehicular easement. As part of its report, DDOT recommended that the Applicant reduce its on-site parking from the 174 spaces then proposed by the Applicant,

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and requested that the spaces be limited to hotel guests and be serviced by valet. The Commission notes that the Applicant has agreed to DDOT's request for valet parking for hotel guests (including visitors to the hotel's accessory uses) only and has reduced the number of spaces provided to 132 spaces. The Applicant has also agreed to install parking spaces for 20 bicycles within the building and will provide ample guest bicycle parking, including installation of DDOT-approved guest bicycle racks on the adjacent sidewalk. DDOT encouraged the Applicant to provide shower and changing facilities for employees and guests who arrive at the hotel by bicycle.

64. DDOT indicated support for the Applicant's proposal to locate a taxi queue for hotel guests along the main entrance to the hotel along Euclid Street, N.W., and also to locate the porte cochere along Champlain Street, N.W.
65. DDOT further indicated that it had worked with the Applicant to establish a transportation demand management ("TDM") program for the Project, including the following commitments: a one-time complimentary \$100 WMATA SmartTrip fare card for each employee; a one-time annual membership and registration fee subsidy for each employee's participation in a car sharing program; a one-time annual membership for each employee in Capital Bikeshare; and a low cost electronic information display in the hotel lobby providing real time information related to local transportation options. The Commission granted DDOT's request for a waiver of the time requirements for filing its report, and the Commission concurs with DDOT's recommendation in support of the Applications.
66. At the October 22, 2012 hearing, the Commission requested that DDOT respond to the transportation related concerns raised by the parties in opposition to the Application. On November 1, 2012, DDOT submitted a supplemental report dated October 31, 2012. The report stated that DDOT understood the opponents' concerns to be the following: (a) allowing idling beyond District regulations; (b) modifying the rear alley to one-way functionality; (c) truck access and management; (d) impact of exiting traffic on delay along the Champlain Street and Euclid Street intersections; (e) congestion at Columbia Road and 18th Street; and (f) inadequate DDOT review of land development projects. DDOT's report responded to each of those issues.
 - a. With respect to idling, DDOT stated that District regulations limit idling to three minutes, except in cold weather when idling up to five minutes is allowed, and that where District regulations are more restrictive than the limitation included in the Applicant's agreement with the ANC, the more restrictive regulation will govern;
 - b. DDOT stated that a change of alley directionality had not been evaluated by or agreed to by DDOT, and that such changes are made in the public space permitting stage when more engineering detail is available;

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- c. With respect to truck access and management, DDOT stated that it remained concerned about the access to loading facilities and requested that the Applicant provide an easement to allow for safe truck turning movements, and a loading management plan to regulate access to site loading facilities with a regular reporting requirement;
 - d. & e. With respect to the traffic related impacts of the Project, DDOT stated it believed that Applicant's traffic analysis to be relatively conservative, that it believed the Project would not result in significantly increased delays in the affected intersections, and that DDOT would continue to work with the surrounding area to address transportation issues when and if they arose; and
 - f. DDOT responded to the criticism of its review of the Application by describing its approach to the analysis it provided in this case.
67. The Applicant submitted a response to the DDOT report on November 7, 2012. The Applicant stated that in response to DDOT's comments:
- a. It would comply with the District's idling regulations;
 - b. It was directing its truck traffic to use a one way circulation pattern because of the orientation of the building's loading docks;
 - c. It was providing the easement and loading management plan that DDOT requested;
 - d. It would continue to work with DDOT , RCNA, and the ANC with respect to ingress and egress to the site, and noted that it was in its interest to abide by the terms of the agreement it made with respect to egress from the site; and
 - e. It noted that DDOT followed its standard approach in its preparing its reports to the Commission.
68. The Commission believes that the Applicant has adequately addressed the concerns raised in DDOT's reports, and believes the conditions included in this order adequately address any potential adverse impacts of the Project.

ANC 1C

69. By letter and resolution dated August 29, 2012, ANC 1C indicated its support for the Applications, with conditions referenced therein. The ANC resolution noted the ANC's belief that the preservation and adaptive reuse of the Church Building represents a public benefit to Adams Morgan and satisfies a major specific initiative of the Comprehensive

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Plan's Mid-City Area Element regarding historic resources. In its resolution, ANC 1C also indicated its recognition of the benefit to the Adams Morgan community of returning the Church Building to productive use, and the new jobs and other economic benefits the Project will bring. The ANC acknowledged that the Project has evolved in response to community concerns about height, design, and massing, and confirmed the ANC's position that the Applications are acceptable and should be approved by the Commission given the quality of benefits offered, subject to the conditions of the ANC resolution. At the time of its recommendation in support, the ANC indicated support for a project measuring 81 feet in height. The Commission infers that the ANC's approval of a building measuring 81 feet also extends to a lower-rise building measuring 72 feet in height.

70. The ANC report included a number of exhibits incorporating information regarding a number of the service providers with which the Applicant is working as part of its community benefits offerings as well as details of a construction management plan.
71. The Commission affords the views of ANC 1C, as represented through the letter and resolution dated August 29, 2012, the great weight to which they are entitled.

Parties and Persons in Support of the Applications

72. The Commission received several hundreds of letters in support of the Applications from District Council members, interested community associations, organizations, and individuals residing or working in the neighborhood. The Commission notes that among those letters in support were included two letters of support from the representative of the owner of the property to the immediate south of the Property, the only private property abutting the development site.
73. The Commission also received oral testimony from a panel of individuals in support of the Applications, including the Director of AMYLA, and the testimony from the President of the RCNA, the community association within whose boundaries the Property is located, confirming the voting procedures of that association.
74. By letter dated August 22, 2012, RCNA requested party status in opposition to the Applications. However, after extensive discussions between representatives of the Applicant and RCNA, culminating in a further reduction in building height of the Project to 72 feet from the Euclid Street measuring point, and an agreement to include the entirety of the Property within the RC Overlay while at the same time pursuing a text amendment to the RC Overlay regulations, and a commitment by the Applicant with regard to further traffic control measures and community enhancements, RCNA withdrew its request as a party in opposition and submitted written testimony as an organization in support of the Applications. (Ex. 77, 78, 130, 142.)

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Parties and Persons in Opposition to the Applications

75. The Commission heard a presentation from parties in opposition, KCA and CSN, which testimony focused on potential negative traffic impacts, concerns regarding noise from the building roof, and concerns regarding displacement of existing residents and businesses. The Commission also received several letters and petitions in opposition to the Applications, based upon similar concerns. No expert witness testimony was provided to contradict the findings of the Applicant's expert witness on traffic analysis and management or DDOT regarding potential traffic impacts. The Commission finds that the roof deck can be operated without negative impacts consistent with certain conditions placed upon its use. The Commission appreciates the comments and concerns regarding potential economic impacts of the Project, including both potentially positive and negative impacts. However, the Commission finds that approval of the Applications will not result in any displacement of residents from the Property, as the Property has been utilized for institutional and commercial purposes for decades.

Contested Issues

Traffic impact

76. The opposition argued that the hotel would generate traffic on the neighborhood streets that would create additional congestion and that would adversely impact the neighborhood. The KCA specifically focused on traffic that would occur during the evening hours, which are not generally be considered to be the peak hours for traffic but which do have specific relevance to the uses found on the Adams Morgan commercial strip along 18th Street and Columbia Road.
77. The opposition presented anecdotal evidence, including some videos of traffic conditions on the streets in front of the site, in support of its contentions.
78. The Applicant presented studies prepared by Ed Papazian of Kimley Horn Associates, who was accepted by the Commission as an expert in traffic and transportation issues, as well as a peer review of those studies by David Fields of Nelson Nygaard, also accepted by the Commission as an expert in traffic and transportation issues. The professional studies and analysis presented by the two traffic engineers demonstrated that the traffic impacts of the proposed hotel can be mitigated to the point that traffic levels in the area will still operate within acceptable levels of service. The study submitted by Kimley Horn, specifically addressed late night traffic conditions and found that the potentially impacted intersections will still operate at acceptable levels of service. (Ex. 194A.)
79. DDOT filed a report, testified at the hearing, and submitted a supplemental report, as set forth in detail in Findings 61 through 67. DDOT believes that the potential transportation impacts of the proposed project are minimal and able to be mitigated. DDOT noted that

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the Applicant has worked with DDOT extensively to address transportation and public space issues related to the proposed development.

80. The Commission finds that the testimony and evidence of the Applicant's two experts and DDOT are persuasive and conclusive and therefore finds that the Project will not have an adverse impact on traffic in the area. The Commission further notes that there are agreements in place between the Applicant and ANC 1C and the RCNA which address some of the potential impact issues and which will tend to mitigate against potential adverse impacts.

Use of the alley

81. The opposition argued that use of the adjacent alley on the west side of the site would be adversely impacted by the vehicles servicing the hotel through its loading dock, which is located with access from the alley. They argued that the alley is narrow, serves many other businesses which front on 18th Street and the hotel trucks would be disruptive to the ongoing use of the alley.
82. The Applicant responded that the main purpose of an alley is to provide service to the properties which abut it. The Applicant proffered a system where trucks bound for the hotel loading area would enter from the south and leave to the north, in a one way pattern. The Applicant has also submitted a loading management plan to regulate access to site loading facilities and to a loading monitoring plan. The Applicant has further agreed to provide an easement at the point where the alley bends adjacent to the site, to provide for a better traffic flow in the alley.
83. The Commission finds that the Applicant's proposal for use of the alley is appropriate and will not cause an adverse impact in the alley. The Commission finds that the alley easement, shown on Sheet 49 of the Plans, will enable a significant improvement in the flow of traffic in the alley, at the point where the alley now bends.

Height

84. As originally presented to the Commission, the height of the building was 92 feet. In its submission of August 17, 2012, the Applicant reduced the height of the building to 81 feet. In the final plans submitted to the Commission, after the Applicant had reached an agreement with the RCNA, the height was reduced to 72 feet, measured to the roof from Euclid Street, with a further reduction in height at the southeast corner of the building. All of the heights were measured from the level of the curb opposite the middle of the front of the building on Euclid Street, in accordance with the provisions of the Regulations. The height ultimately approved in this order is a maximum of 72 feet with a parapet permitted above the roof.

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85. The opposition argued that the building was too high for the site and that the building would loom over the properties to the south along Champlain Street.
86. The Applicant submitted as part of its plans, studies showing the absolute and relative heights of the proposed building. The Applicant's plan further contained shadow studies showing the impact of shadows at various times of the year.
87. The Commission finds that the Applicant's materials, plans, and testimony demonstrate that the revised design will result in a building that fits in with the character of the area, and that will be consistent with the heights of other existing building around it. The Commission further notes that the site is appropriate for the height proposed because of its frontage on the wider open space created by the confluence of 18th Street, Columbia Road, and Euclid Street. The permitted heights of buildings further south along Champlain Street are correspondingly lower. The Commission notes favorably the step-down in height to 61.75 feet at the southeast corner of the building. The Commission further notes that there was no opposition to the height from the owners and residents of the most closely affected building to the south of the project on the west side of Champlain Street.

Design

88. The design of the building was revised substantially from the time it was first reviewed as part of the set-down discussion on November 14, 2011, to the plans finally before the Commission and approved in this Order.
89. The Commission's concerns about the original design have been overcome through the changes presented. The final building design, which has received conceptual approval from the Historic Preservation Review Board, is sensitive to its context and is a much improved whole over the earlier versions.

Roof deck

90. The hotel is proposed to have a roof deck which would be available for use by the guests of the hotel. The roof would also have the normal penthouses for stairs, elevator overrides, and mechanical equipment.
91. The opposition argued that the use of the roof by guests would create unacceptable noise impacts to residents of nearby dwellings. The opposition presented only anecdotal assertions to substantiate that claim and did not have any expert or reliable evidence to support that argument.

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92. In response to the Commission's request for the Applicant to reexamine the design of the roof, the Applicant submitted plans after the hearing which altered the location of the penthouses and the roof deck and provided for certain screening devices.
93. The Commission finds that the way in which sound will emanate from the roof will not likely result in noise levels that will adversely affect nearby dwellings. The sound will not be as noticeable because the roof deck is higher than the two- and three-story townhouses nearby. The commission also notes favorably the agreement between the Applicant and the RCNA, which has detailed specifications about how the hotel will operate and which will tend to decrease the noise from the roof.

Comprehensive Plan

94. The opposition argued that the proposed rezoning and the approval of the PUD would not be consistent with the Comprehensive Plan. The opponents argued that the project had not been sufficiently reviewed and that insufficient public comment had been received, that adequate detail had not been provided, and that policies regarding economic development had not been observed.
95. The Applicant submitted a detailed analysis of consistency with the Comprehensive Plan through the report and testimony of its zoning and land planning expert. The Office of Planning also did that analysis, and concluded that, with the height of the building reduced to 72 feet, the property would be not inconsistent with the Comprehensive Plan.
96. The Commission finds that the proposed development with rezoning to RC/C-2-B will be not inconsistent with the Comprehensive Plan. The major touchstone is the designation on the Future Land Map. That map includes the property in the mixed use moderate density residential/low density commercial category. The Commission finds that that same designation applies to the 18th Street and Columbia Road commercial frontage now currently zoned C-2-B. The Commission further concurs in the findings of the Applicant's expert regarding the goals and policies of the Land Use element, the Transportation element, the Environmental Protection element, the Economic Development element, the Historic Preservation element, the Urban Design element, and the Mid-City Area element.

Displacement of residents and businesses on Columbia Road

97. The opposition argued that approval of the PUD would have an adverse effect on small businesses and minority populations, contrary to the Comprehensive Plan and other District policies.
98. The Commission finds that the northern building on the subject property is now vacant and was last used as a church. The southern building is occupied by office uses. The

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tenants in that building did not submit any objection or opposition. The Commission finds that no retail or residential occupant will be displaced as a direct result of the approval of the proposed project. Overall changes in the economy and demographics of the neighborhood may result in an increase in rents or prices for commercial space. The Commission is unable to find that either businesses on Columbia Road or residential tenants in the immediate neighborhood will be displaced as a result of approval of this property. If displacement were to occur, the Commission is hard pressed to attribute that result to approval of the Applications. The opponents did not present any expert or concrete evidence in support of their assertions which would lead the Commission to reach that conclusion.

CONCLUSIONS OF LAW AND OPINION

1. Pursuant to §2400.1 of the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that a PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. The objective of the PUD process is to encourage high quality development that provides public benefits and project amenities by allowing applicants greater flexibility in planning and design than may be possible under conventional zoning procedures. Subsection 2403.9 of the Zoning Regulations provides categories of public benefits and project amenities for review by the Commission. In approving a PUD, the Commission must determine that the impact of a PUD on the surrounding area and on the operation of city services and facilities is either not unacceptable, is capable of being mitigated, or is acceptable given the quality of public benefits provided by said project. (11 DCMR §2403.3.)
3. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
4. The development of this PUD carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
5. The PUD's benefits and amenities are reasonable for the development proposed on the Property. The impact of the PUD on the surrounding area is not unacceptable. Accordingly, the Applications should be approved.

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6. Evaluating the PUD according to the standards set forth in § 2403 of the Zoning Regulations, the Commission concludes that the Applications qualify for approval. Judging, balancing, and reconciling the relative value of amenities and benefits in the Applications against the nature of the Applicant's request and any potential adverse effects, the Commission is persuaded that the proposed public benefits herein, in conjunction with the amenities discussed above, are appropriate in this case.
7. Approval of this PUD and change of zoning is not inconsistent with the Comprehensive Plan.
8. Approval of this PUD and change of zoning is not inconsistent with the purposes and objectives of zoning as set forth in § 2 of the Zoning Act of 1938, effective June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.02), including as follows:
 - a. The proposed rezoning is not inconsistent with the Comprehensive Plan;
 - b. The proposed rezoning will not produce objectionable traffic conditions;
 - c. The proposed rezoning will not lead to the undue concentration of population and the overcrowding of land; and
 - d. Approval of this PUD will promote the general welfare and tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational and cultural opportunities.
9. The Applications can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
10. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, building density, lot occupancy, parking and loading, or for yards and courts. The Commission may also approve uses that would otherwise require approval by the Board of Zoning Adjustment.
11. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the affected ANC's recommendations. The Commission has carefully considered ANC 1C's recommendation for approval and concurs in its recommendation. The Commission affords the views of ANC 1C the great weight to which they are entitled.
12. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04) to

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give great weight to OP recommendations. For the reasons stated above, the Commission concurs with OP's recommendation to approve the application made in its supplemental report, and has given its recommendations great weight.

13. The Applications for a PUD and Zoning Map amendment will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
14. The Applications for a PUD and Zoning Map amendment are subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the Applications for consolidated review of a PUD and for a Zoning Map amendment from RC/C-2-B and R-5-B to RC/C-2-B for Lots 127, 872, and 875 in Square 2560².

For the purposes of these conditions, the term "Applicant" shall mean the person or entity then holding title to the Property. If there is more than one owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the Property, that party shall have no further obligations under this Order; however, that party remains liable for any violation of these conditions that occurred while an Owner.

This approval is subject to the following guidelines, conditions, and standards:

A. Project Development

1. The Project shall be developed in accordance with the plans submitted to the Commission on October 31, 2012, and the guidelines, conditions, and standards herein. (Ex. 195A.) These plans incorporate comments received from the Commission and also the HPRB and supersede all earlier Project drawings included in the Record.
2. The Project shall be a hotel measuring approximately 72 feet in height to the top of the roof measured from Euclid Street, N.W., with a building density of not more than 3.99 FAR, containing 132 parking spaces. The Applicant intends to valet-park the garage including parking for 14 First Church vehicles. Within such

² The Commission is separately considering an application for amendment to the text of the Zoning Regulations regarding Chapter 14 of the Zoning Regulations (RC Overlay), which amendment specifically addresses the proposed uses and area requirements applicable to the Project (Z.C. Case No. 12-17).

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hotel, restaurant and bar use shall be allowed, such restaurant and bar use to be located only within the First Church Christ Scientist building, provided that food and alcohol shall be permitted to be served in the enclosed pool, the meeting rooms, the guestrooms, and the rooftop area located in the addition to the First Church Christ Scientist building for so long as such addition and the First Church Christ Scientist building are being operated together as a hotel. No nightclub shall be permitted.

3. The roof of the Project shall be utilized consistent with the following conditions:
 - a. **Structures.** No permanent structures providing a roof over usable space are allowed. The only exceptions are: (i) the structures holding the building mechanicals; (ii) structures used for entry/exit; and (iii) bathrooms. Temporary structures are only allowed for events and must be removed within 48 hours following the event. No permanent bar is allowed. Any temporary bar must be removed by the end of any night on which it is used;
 - b. **Events.** Except as provided herein, no events are allowed that are open to the general public. The only allowable events are (i) family celebrations (for example weddings, birthdays, reunions, etc.); and (ii) private events in which the attendees have an independent nexus with the sponsor of the event beyond the fact that they will be attending the event (for example, a company hosting an event for its employees, an organization hosting a fundraiser, or a trade group hosting a conference, etc.). The Applicant will require the hotel operator to expressly prohibit promoted or sponsored events where advertising is made to the general public, where tickets are sold to the general public (except for a charity or other such fundraiser), or where unaffiliated people are granted entry. All events will be located in the central portion of the rooftop between the penthouse structures on the east and west sides of the rooftop;
 - c. **Noise.** Rooftop use must comply at all times with DC noise ordinances. Rooftop noise must not be audible from nearby residences. A glass/plexiglass sound barrier must be installed above the masonry walls in accordance with the best noise reduction standards in the industry. Amplified music is not allowed on the rooftop. Instrumental music is allowed only in connection with events; and
 - d. **Lighting.** Any lighting must be installed so as to minimize shining onto nearby residences. No neon lighting, strobe lighting, or search lights are permitted.

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4. The Applicant is granted flexibility with the design of the Project to provide multiple roof structures, of varying heights, not all of which meet the 1:1 setback requirement from the exterior walls of the building.
5. The Applicant is granted flexibility with the design of the Project to modify the design of the Project as required by the HPRB pursuant to approval under the District of Columbia, provided that those changes do not increase any of the areas of relief granted by the Commission.
6. The Applicant is granted flexibility with the design of the Project to provide fewer than the required number of parking spaces pursuant to § 2101 of the Zoning Regulations.
7. The Applicant is granted flexibility with the design of the Project to vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the buildings.
8. The Applicant is granted flexibility with the design of the Project to vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of materials.
9. The Applicant is granted flexibility with the design of the Project to make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit.
10. The Applicant is granted flexibility with the design of the Project to vary the final selection of landscaping and vegetation types as proposed, based upon availability at the time of construction and finalization of site grading and utility plans.

B. Public Benefits and Project Amenities

1. The Project shall be designed and constructed to receive a sufficient number of points under the United States Green Building Council's LEED New Construction (NC) 2009 standards that would entitle the Project to the LEED NC Silver rating should the Applicant choose to make such application.

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2. The Applicant shall preserve and adaptively reuse the Church Building as part of the Project.
3. For the life of the Project, the Applicant shall provide within the Project the Adams Morgan Community Center ("AMCC") of approximately 4,000 square feet finished to allow occupancy and use for multiple purposes including community meetings of ANC 1C and community organizations and certain active records, career and other training, host exhibits, a nonprofit incubator and forum for discussion of new business or service needs or opportunities and a "black box" theatre. The AMCC will include basic utility services as well as furnishings and audio equipment.
4. Prior to the issuance of the certificate of occupancy for the Project, the Applicant shall refurbish and maintain Unity Park, through a combination of plantings and landscape improvements after a community charette process, with an estimated cost of \$100,000.
5. Prior to the issuance of the certificate of occupancy for the Project, the Applicant shall grant a non-exclusive surface easement so as to effectively expand the width of a portion of the public alley abutting the western face of the Property to allow clearance up to 16 feet high for vehicles to proceed across a portion of the site instead of having to negotiate turns of more than 90 degrees and remain within the existing alley's constricting right of way.
6. For the first 20 years following issuance of the certificate of occupancy for the Project, the Applicant shall provide within the AMCC, space for AMYLA, a District nonprofit organization, to carry out its programs and those in which it is a partner with other entities in developing human resources in the Adams Morgan community, pursuant to the terms of the Memorandum of Understanding (Ex. 34), which Memorandum of Understanding provides for the endowment of this entity with an annual stipend (for each of the first five years – the greater of \$30,000 or revenues derived from a 50 cent surcharge on each room sold for each paid night; for each of years 6-20 – the revenues from the 50 cent surcharge), while also providing for eventuality of AMYLA's reorganization and succession during this time.
7. For the first 20 years following issuance of the certificate of occupancy for the Project, the Applicant shall engage the Sasha Bruce Youthwork, Inc. as a mentoring partner with AMYLA that leads participating youth to earn a high school diploma or pass a general education development test and provide occupational skills for career placement, pursuant to the terms of the Memorandum of Understanding. (Ex. 34.)

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8. For the first 20 years following issuance of the certificate of occupancy for the Project, the Applicant shall engage the Greater Washington Hispanic Chamber of Commerce as a partner in both construction goods and labor as well as in a source of employment in hotel operations as the hotel operates, pursuant to the terms of the Memorandum of Understanding. (Ex. 34.)
9. For the first 20 years following issuance of the certificate of occupancy for the Project, the Applicant shall engage Hospitality High School (HHS) as a partner with AMYLA that identifies HHS students to serve as employees after completing the HHS program as interns while in its program, pursuant to the terms of the Memorandum of Understanding. (Ex. 34.)
10. Prior to the issuance of the certificate of occupancy for the Project, the Applicant has entered into a First Source Employment Agreement with DOES whereby the Applicant commits to work through DOES to ensure that at least 51% of any new hires created by the Project shall be District of Columbia residents. The Applicant also has agreed to establish an apprenticeship program.
11. Prior to the issuance of the certificate of occupancy for the Project, the Applicant entered into a Certified Business Enterprise Utilization Agreement with DSLBD whereby the Applicant agrees to contract with Certified Business Enterprises for no less than 35% of the adjusted development budget for the Project.
12. For the first five years following issuance of the certificate of occupancy for the Project, the Applicant shall provide crews to pick up litter and debris as part of a public space maintenance program, at a cost of approximately \$8,000 per month for wages, materials and equipment for the following: Northern boundary: Harvard Street, N.W., the 1600 block to the 1800 block; Eastern Boundary: the 2000 through the 2700 blocks of 16th Street, N.W.; Southern Boundary: the 1600 and 1700 blocks of U Street, N.W.; the 1700 through the 1900 blocks of Florida Avenue, N.W.; Western Boundary: the 1800 through the 2300 block of Connecticut Avenue, N.W., excluding all Federal property East of Connecticut Avenue, N.W., but including all District residential streets on the boundary with Rock Creek Park from the 2000 block of Waterside Drive to the 2800 block of Adams Mill Road, N.W., with costs not to exceed \$480,000 for said five-year period.
13. Prior to the issuance of the certificate of occupancy for the Project, the Applicant will support the Marie H. Reed Community Learning Center so that it can have or augment existing education resources, including bi-lingual classroom libraries, train staff in advanced teaching techniques, and equipping its iPad laboratory, at a

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cost not to exceed \$35,000, expenditures to be coordinated with the Center's Principal.

14. Prior to the issuance of the certificate of occupancy for the Project, the Applicant will support the H. D. Cooke Elementary School to provide classroom libraries to its classrooms, basic musical instruments for individual students (recorders for all and some xylophones) and advanced technology for classrooms now lacking same ("smartboards"), such support to materials and financial contributions undertaken in coordination with the school's Principal, at a cost not to exceed \$41,413.
15. Prior to the issuance of the certificate of occupancy for the Project, the Applicant will provide Jubilee Jump Start ("JJS") cribs, video equipment, four-seat strollers, "prop boxes", staff training, and enhance supplies used in the course of its operation. The Applicant will also provide the means to carry out certain essential repairs as well as abate noise from the JJS operations affecting nearby residents, such support and contribution not to exceed a total of \$50,000.
16. Prior to the issuance of the certificate of occupancy for the Project, the Applicant shall provide financial support in the amount of \$20,000 for the Sitar Center for staff enhancement in its program providing arts enrichment to infants and young children, particularly those from lower income families.
17. Prior to the issuance of the certificate of occupancy for the Project, the Applicant shall provide financial support in the amount of \$35,000 to For the Love of Children for staff enhancement in its tutoring programs providing focused training for those who aspire to complete high school or gain certification of high school equivalency.
18. Prior to the issuance of the certificate of occupancy for the Project, the Applicant will complete the tasks below on the grounds of the Marie Reed Learning Center, at an estimated cost of \$200,000. If necessary permissions cannot be obtained from the applicable government agencies, the Applicant and RCNA will work cooperatively to identify alternative tasks on the grounds of the Marie Reed Learning Center of comparable economic value for the Applicant to complete instead. If, due to unforeseen circumstances, the completion of any of these tasks would require additional work that is materially beyond the scope of what is specified herein, then the Applicant and RCNA will work cooperatively to identify alternative tasks on the grounds of the Marie Reed Learning Center of comparable economic value for the Applicant to complete instead:
 - a. Remove selected plants (to be identified, not to include the three mature trees immediately south of the indoor swimming pool on Champlain

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Street) on the exterior perimeter of the ball field from Champlain Street south of the indoor swimming pool, along Florida Avenue, and along California Street. RCNA will generate a Community Tree Planting ("CTP") plan for replacement greenery to be provided by Casey Trees or other organizations;

- b. Remove the chain link fencing on the perimeter of the ball field from Champlain Street south of the indoor swimming pool, along Florida Avenue, and along California Street to the tennis courts;
- c. Repair the damaged portion of the cement retaining wall that has sagged on the Champlain Street side of the ballpark due to erosion, so that it is structurally sound and level with the rest of the retaining wall;
- d. Install new fencing (of same style and quality as existing at Marie Reed Learning Center grounds, height to be determined) on the perimeter of the ball field from Champlain Street south of the indoor swimming pool, along Florida Avenue, and along California Street to the tennis courts. Installation to include two gates on Champlain Street, a gate on Florida Avenue, and a gate on California Street;
- e. Install a new plastic/vinyl-coated chain link backstop for the ball field;
- f. Provide movable adult- and youth-sized soccer goal posts for the ball field;
- g. Remove the railroad ties at the southern end of the tennis courts on Champlain Street. Replace them with a new supporting structure that integrates beds for planting shrubbery;
- h. Replace the missing bar in the chain link fencing of the tennis courts on the 18th Street side;
- i. Remove the chain link fencing on 18th Street and install new fencing (height to be determined);
- j. Remove the chain link fencing on the southern edge of the middle tier of the grounds that divides the middle tier of the grounds from the ball field and install new fencing (height to be determined);
- k. Remove the chain link fencing on the southern edge of the upper tier of the grounds that divides the upper tier of the grounds from the middle tier

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of the grounds, install new fencing (height to be determined) and remove the old steel fence support structures attached to the cement base;

- l. Remove the chain link fencing on the eastern edge of the basketball courts on the upper tier of the grounds, install new fencing (height to be determined), and adjust the gates to the north and south of this new fencing to appropriate heights as necessary;
- m. Remove the chain link fencing enclosing the water pumping station and the outdoor pool and install new fencing (height to be determined);
- n. Remove all stair and ramp handrails, repair the cement bases as necessary, and install new handrails in a style that coordinates with the new fencing;
- o. Provide three benches near the basketball courts matching the benches found on the middle tier of the grounds and paint all benches;
- p. Paint the posts for the basketball nets; and
- q. Repair all light posts anywhere on the grounds and paint them.

C. Miscellaneous

1. The Applicant shall abide by the transportation demand management plan consistent with the recommendations set forth in the August 29, 2012 DDOT report. (Ex. 56.)
2. The Applicant shall abide by the terms of the truck management plan as set forth on Pages 5 and 6 of the Agreement executed on September 4, 2012, between the Applicant and RCNA (Ex. 78.)
3. The Applicant shall pursue approval through the DDOT public space permitting process of the taxi queue along Euclid Street, as identified in the Project drawings.
4. No building permit shall be issued for the Project until the Applicant has recorded a covenant in the Land Records of the District of Columbia (the "PUD Covenant") between the property owner and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). Such PUD Covenant shall bind the property owner and all successors in title to construct on

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and use the Property in accordance with this Order or amendment thereof by the Commission.

5. The Zoning Map Amendment referenced herein shall become effective only upon the recordation of a PUD Covenant.
6. The consolidated PUD approved by the Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in §2409.1 of the Zoning Regulations. Construction of the Project shall begin within three years of the effective date of this Order.
7. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (Act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On November 19, 2012, upon the motion of Chairman Hood, as seconded by Vice Chairman Cohen, the Zoning Commission **APPROVED** the Applications at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On February 25, 2013, upon the motion of Chairman Hood, as seconded by Vice Chairman Cohen, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on March 15, 2013.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 12-15
Z.C. Case No. 12-15**

**Application of Gallaudet University for Special Exception Approval of a New Campus Plan
and Further Processing of an Approved Campus Plan
January 28, 2013**

This case is an application by Gallaudet University (the "University" or "Applicant" or "Gallaudet") requesting special exception approval under the campus plan provisions of the Zoning Regulations at 11 DCMR §§ 3104.4, 3035, and 210 for a new campus plan, and further processing under the new plan to allow the renovation and residential use of Fay House and Ballard House. In accordance with §§ 210 and 3035.5 of the Zoning Regulations, this case was heard and decided by the Zoning Commission for the District of Columbia (the "Commission") using the rules of the Board of Zoning Adjustment ("BZA") at 11 DCMR §§ 3100 *et seq.* For the reasons stated below, the Commission hereby approves the application, subject to conditions.

HEARING DATE: November 26, 2012

DECISION DATE: January 28, 2013

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR §§ 3113.2.

FINDINGS OF FACT

Applications, Parties, and Hearing

1. The University's current campus plan was adopted by the Commission by Z.C. Order No. 03-02, issued August 26, 2003 (the "2002 Plan"). The 2002 Plan was approved, subject to certain conditions, for a 10-year term. In 2006, in Z.C. Order No. 06-16, the Commission approved further processing of the 2002 Plan to permit construction of the Sorenson Language and Communications Center. In 2010, in Z.C. Order No. 03-02A, the Commission approved an amendment to and further processing of the 2002 Plan to allow the renovation and conversion of Denison House from administrative to residential use. In 2011, in Z.C. Order No. 03-02B, the Commission approved an amendment to and further processing of the 2002 Plan to allow the construction of the Living Learning Residence Hall 6. No other further processing applications have been filed since that time.
2. On August 22, 2012, the University submitted an application seeking special exception review and approval of a new campus plan (the "2012 Plan"). Included in this application was a request for further processing of the 2012 Plan in order to renovate and convert Fay House and Ballard House from administrative to residential use. (Exhibit ["Ex."] 3.)
3. Notice of the public hearing was published in the *D.C. Register* ("DCR") on September 21, 2012 (59 DCR 10999) and was mailed to Advisory Neighborhood

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- Commission ("ANC") 5B and to owners of all property within 200 feet of the subject property.
4. The public hearing on the application was conducted on November 26, 2012. The hearing was conducted in accordance with the provisions of 11 DCMR §§ 3022 and 3117.
 5. In addition to the Applicant, ANC 5B was automatically a party in this proceeding. ANC 5B submitted a report in support of the application. ANC 6A and ANC 6C, both of which are located across Florida Avenue, N.E. to the south of the campus, also submitted letters in support of the application. (Ex. 22, 25, 28.)
 6. At the public hearing, the University presented evidence and testimony from Fred Weiner, the University's Interim Assistant Vice President, Administration; Hansel Bauman, Director of Campus Planning and Design, who qualified as an expert witness in campus planning; and Nicole White, Principal with Symmetra Design, who qualified as an expert in transportation planning and traffic engineering. (Ex. 20.)
 7. At the public hearing, the Commission heard testimony and received evidence from the Office of Planning ("OP") in support of the application. (Ex. 24.) The Commission also heard testimony and received a report from the District Department of Transportation ("DDOT") generally in support of the application. (Ex. 23.) The Commission also heard testimony and received evidence from several persons in support of the application. (Ex. 27.)
 8. At a public meeting on January 28, 2013, the Commission took final action to approve the application in Z.C. Case No. 12-15, subject to conditions.

The Campus and Surrounding Property

9. The Property that is the subject of this application is the residentially zoned portion of the University's Campus, which is identified as Parcel 141/69 (the "Campus" or the "Property"). The Property is located in Northeast Washington, has an area of approximately 93 acres, and is bounded generally by Mount Olivet Road and Corcoran Street to the north; West Virginia Avenue to the east; Florida Avenue to the south; and Brentwood Parkway and 6th Street to the west.
10. Adjacent to the Campus, on the east side of 6th Street, N.E. are Parcel 129/70 (45,440 sq. ft.) and Parcel 129/103 (61,500 sq. ft.) both of which are zoned C-M-1. These parcels contain a University parking garage and the Appleby Building, which houses University support functions. Together, these two parcels and Parcel 141/69 comprise 95.5 acres. To the west, across 6th Street, are Parcels 129/106 (20,895 sq. ft.), and 129/112 (78,936 sq. ft.) and Square 3591, Lot 4 (66,743 sq. ft.) all of which are zoned C-M-1. Although a

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University use is permitted as a matter of right in the C-M-1 Zone District, and the Commission's review jurisdiction is limited to the 93-acre D/R-4 zoned portion of the Campus, the entire 99.35 acre campus was included by the Applicant in its presentation to provide to the Commission a complete picture of what is proposed.

11. Gallaudet is unique among colleges and universities in the District in that there are both an elementary school and a high school on the Campus. The Clerc Center, located on the northern portion of the Campus, includes the Kendall Demonstration Elementary School (KDES) and the Model Secondary School for the Deaf ("MSSD"). The Clerc Center occupies about 30 acres of the 93-acre D/R-4 zoned portion of the Campus. Historically, the elementary and high schools have been included in campus plans approved for Gallaudet University. *See, e.g.*, BZA Application No. 11093 (orders of December 13, 1972 and April 5, 1973), BZA Application No. 11451 (order issued January 4, 1974), and BZA Application No. 13220 (November 10, 1980). The University again included the Clerc Center in the proposed 2012 Campus Plan in order to provide a full understanding of the future development on the Campus.
12. The main entrance to the Campus is located on Florida Avenue near its intersection with 8th Street, N.E. Vehicular access to the Campus is also provided on 6th Street, on Brentwood Parkway and on West Virginia Avenue.
13. The campus is split-zoned D/R-4 and C-M-1. The surrounding area is generally zoned C-M-1 to the west, and R-4 to the north, east, and south. The Campus is designated in the Institutional land use category on the Future Land Use Map of the Comprehensive Plan of the National Capital.

Campus Plan Application

14. The 2012 Plan sets forth in detail Gallaudet's desired plans for the next 10 years. The 2012 Plan assumes a modest annual growth of the student population between one percent and three percent during that time. In summary, over the course of the next decade, Gallaudet desires to undertake a variety of demolition, renovation, and new construction projects, totaling a net increase of approximately 206,000 square feet of new space for the University, and a net reduction of approximately 94,400 square feet on the Clerc Center.
15. The University presented evidence and testimony that the 2012 Plan was developed through a collaborative community-based planning process, which included meetings over the last year. On October 12, 2011, Gallaudet discussed the proposed Campus Plan with the Gallaudet Community Relations Council ("GCRC"). Since that time, GCRC members have been involved with the community meeting processes (as further described below), and have participated in dialogue with the University about the Campus Plan. The Campus is located within the jurisdiction of ANC 5B and is located

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adjacent to ANC 6A and ANC 6C. The University made the following presentations to the ANCs prior to the filing of this application:

- December 1, 2011 Introductory discussion with ANC 5B
- March 1, 2012 Presentation to ANC 5B
- March 14, 2012 Presentation to ANC 6C
- March 16, 2012 Presentation to ANC 5B SMD06 at Gallaudet University
- March 21, 2012 Presentation to ANC 6A Economic Development and Zoning Committee
- April 4, 2012 Presentation to ANC 6C Planning, Zoning, and Environment Committee

16. Gallaudet also held a series of four community outreach meetings in various parts of the community in the Spring of 2012, and obtained community input which helped to inform the Campus Plan. Gallaudet held three community forums, at the Trinidad Recreation Center on Saturday morning, April 14, 2012; at The Atlas Performing Arts Center on Monday evening, April 16, 2012; and at Gallaudet University Chapel Hall on Tuesday evening, April 17, 2012. Each of these forums provided the same information, and included an opportunity for the community to explore specific topics with University representatives, and to engage in a dialogue about the Campus Plan. A workshop was then held on Monday evening, April 30, 2012 at the Peikoff Alumni House on the Gallaudet campus. The workshop focused on major themes, synthesized the information obtained in the community forums, and provided a further opportunity for community members and University representatives to explore specific topics.

17. Subsequent to the scheduling of the Zoning Commission review of this application, Gallaudet made formal presentations of the proposed Campus Plan and further processing to the ANC's as follows:

- October 4, 2012 ANC 5B
- October 17, 2012 ANC 6A Planning and Zoning Committee
- November 7, 2012 ANC 6C Planning and Zoning Committee
- November 8, 2012 ANC 6A
- November 14, 2012 ANC 6C

18. Pursuant to 11 DCMR § 210.1, the Commission finds that Gallaudet University is an academic institution of higher learning that was chartered as such by an Act of Congress. (Ex. 20, p. 7.) Gallaudet was formally established in 1856 as a small school for deaf and blind children. It was later incorporated as the Columbia Institution for the Instruction of the Deaf and Blind. Pursuant to Congressional approval, the college division was added in 1864. Gallaudet became the first, and was, for almost a century, the only institution of higher learning specifically designed to meet the needs of the deaf population. Gallaudet

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became a University in 1986 upon the passage of the Education of the Deaf Act. Gallaudet is fully accredited and authorized to confer degrees.

19. As required by 11 DCMR § 210.2, the Commissions finds that the proposed use will be located so that it will not likely become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable impacts.

(a) Noise

The Campus Plan is designed so as not to create objectionable conditions because of noise. The main portion of the Campus is spread across 95.5 acres, and has significant open space adjacent to its residential neighbors to the north, east, and south. Within the Campus boundaries, University activities are designed to be located in such a manner as to satisfy Gallaudet's need for a tranquil and secure place for students to study, work and live. In its efforts to reduce ambient noise, Gallaudet has built into the Campus Plan a landscaped perimeter buffer to all adjacent residential areas, in addition to the preservation, maintenance, and enhancement of large open green space, including the Olmsted Green, the Gallaudet Mall, and several athletic fields.

For the reasons set forth above, the Commission finds that the 2012 Plan is not likely to become objectionable to neighboring property due to noise.

(b) Traffic

The University is designed as a pedestrian-oriented campus, with parking located along its periphery. Because of the large size of the Campus and the fact that it operates as a self-contained unit, visitors, faculty, and staff park on campus rather than on the streets in the surrounding neighborhood.

At present, the Campus contains a total of 1,588 parking spaces, 1,381 primary on-campus parking spaces located within parking garages and surface lots, plus an additional 207 spaces located in an overflow parking lot located across 6th Street. Peak occupancy of the total parking supply has been determined to total 67% of available spaces, whereas in 2002 peak occupancy measured 74% percent of the then-existing supply. The 207 overflow parking spaces are used four or five times a year, and are planned to be eliminated as part of future Campus Plan development. Additionally, 14 parking spaces adjacent to College Hall will be eliminated in order to enhance landscaping in that area. The University will maintain an on-campus parking supply of approximately 1,367 spaces.

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Because the student population is projected to increase by up to three percent per year¹, the University will implement additional Transportation and Parking Demand Management measures. These measures, which are further described in the report prepared by Symmetra Design (Ex. 20, Tab D), are intended to manage current and future parking demands within Gallaudet's current primary parking supply. The University currently operates a shuttle service for students and faculty/staff, and has recently installed a Capital Bikeshare station on Campus, with space for 19 bikes, adjacent to the main entrance at 8th Street and Florida Avenue. As further detailed in the Symmetra Design report, the University will continue to examine additional measures to manage its existing parking supply and further encourage alternate modes of transportation in the future.

As part of the Campus Plan, Gallaudet has proposed an improved site access system to increase safe pedestrian connections to/from transit and the surrounding development neighborhood and enhance vehicular efficiency and safety.

Routine deliveries to the University are generally made in trucks of up to 30 feet in length. On rare occasions, special deliveries associated with construction projects or other special situations on campus occur using 55-foot tractor-trailer trucks. The University submitted a Transportation Impact Study which shows that truck movements with trucks of up to 55 feet can be made into and out of the 8th Street gate on Florida Avenue in all instances. (Ex. 31.) However, for 55-foot trucks exiting the 8th Street gate and turning westbound onto Florida Avenue, the truck will encroach onto the eastbound lane of traffic. Gallaudet proposes that 55-foot trucks exiting the 8th Street gate and heading westbound on Florida Avenue will be permitted only if appropriate construction or flag personnel are available to assist with managing that maneuver.

The Commission finds that approval of the 2012 Plan is not likely to become objectionable to neighboring property because of traffic. The campus will provide an adequate number of parking spaces, as demand for parking is not likely to significantly increase, and the University will attempt to further reduce the number of vehicle trips to campus through the Transportation Management Plan ("TMP").

(c) Number of Students

The students at Gallaudet are deaf, hard of hearing, or are pursuing a professional career related to deafness. As such, future enrollment projections for Gallaudet can be calculated with greater precision than is possible at other universities. While the student population increased dramatically in the 1980s as a direct result

¹ The numbers of faculty and staff are not expected to increase over the next 10 years.

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of the Rubella epidemic of the early 1960s, Gallaudet has actually witnessed a slight decrease in student population since the 2002 campus plan was approved. This is due primarily to two factors – the stabilization in the numbers of the deaf population, and greater communication access for deaf and hard of hearing students, allowing for more opportunities to attend a wide variety of colleges and universities than in previous times.

At the time of the 2002 campus plan approval, Gallaudet maintained a total University student population of approximately 1,706 students (1,492 FTE). The current student population has dropped to 1,611 students (1,442 FTE). Gallaudet projects that the total University student population in 10 years will increase between approximately one percent and three percent per year.

Approximately 73% of University-level students at Gallaudet currently live in campus housing. Over the next 10 years, Gallaudet intends to maintain the same percentage of available beds with respect to enrollment trends. Upon completion of the proposed residence hall renovations and new construction, the University will be able to house 1,634 students or approximately 73% of the maximum total projected student enrollment of 2,238.

The Commission finds that the approval of the proposed campus plan will not tend to create conditions objectionable to neighboring properties because of the number of students. During the hearing, the University demonstrated that the proposed increase in the number of students, as well as the student population as a whole, would not result in objectionable impacts due to the many existing and proposed measures implemented by the University to mitigate noise, lighting, traffic, parking, and other impacts. The Commission also finds that the proposed phase-in for the projected enrollment increase is reasonable and will ensure no objectionable impacts are felt in the surrounding community.

(d) Other Objectionable Conditions

The Commission finds that approval of the proposed campus plan will not create other conditions objectionable to neighboring property due to multiple features of the 2012 Plan that address the aesthetic and environmental features of the Campus.

20. Under 11 DCMR § 210.3, the total bulk of all buildings and structures on the Campus must not exceed a floor area ratio (“FAR”) of 1.8. As required under 11 DCMR § 210.8, the University submitted evidence that the University development plan will result in a density of 0.5 FAR, within the density limit for the campus as a whole. (Ex. 20, Tab C and pp. 11-12.) The University and the Clerc Center together will not exceed 0.64 FAR.

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21. The Applicant submitted a plan for developing the campus as a whole, showing the location, height, and bulk of all present and proposed improvements, as required by 11 DCMR § 210.4. (Ex. 8.) The Gallaudet Campus Plan document titled "Gallaudet University 2022 Campus Plan - Executive Summary", dated August 22, 2012, was filed with the Commission as a part of this application. That document outlines Gallaudet's plan for development of the Campus as a whole for the upcoming decade, and indicates the location, height and bulk of all existing and proposed improvements. That document, as well as the Prehearing Statement (Ex. 20), illustrate the following:

(a) Buildings and parking and loading facilities.

The 2012 Plan is designed to guide the University in its construction and renovation projects over the course of the next ten years. The 2012 Plan includes the proposed demolition of 270,778 square feet of University buildings and 249,392 square feet of Clerc Center buildings, and new construction of 476,804 square feet of University buildings and 155,000 square feet of Clerc Center buildings. As detailed in the 2012 Plan (Ex. 8), the University proposes a three-phase plan of expansion, renovation, and relocations during this period:

Phase I – Implementation

1. Gallaudet Interpreting Service Relocation

To prepare for the renovation of Ballard and Fay Houses, Gallaudet Interpreting Service ("GIS") will be relocated temporarily until its permanent home in the new student center at Hall Memorial Building ("HMB") is completed.

2. Renovations to Ballard & Fay Houses

The two houses will be renovated into new living/learning communities. The project will involve full interior renovations-finishes replacement, new ceilings, new bathroom fixtures, new lighting and new M/E/P systems as well as selected exterior aesthetic improvements.

3. Gallaudet Research Institute Relocation

The occupants of Dawes House – Gallaudet Research Institute and the Institutional Review Board – will be relocated temporarily in order to renovate the building. A temporary space will be prepared for these departments in HMB and they will be relocated upon completion.

4. Dawes House Renovation The building, which has yet to be renovated since its construction in the 1880s, will receive full interior and exterior renovations. An elevator will be added to the building to provide an accessible path to each floor.

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- 5. Academic Space Relocates Into Dawes House**
Once the renovations to Dawes House are complete, a yet to be determined academic department will relocate to this location.
- 6. Relocation of Department of Transportation**
In order to implement the new campus entrance to the community at the corner of Florida Avenue and 6th Street, the Department of Transportation, currently located in the Appleby Building, will need to be relocated. Gallaudet is currently searching for an off-site property near the campus to house this department.
- 7. 6th Street Gateway & Olmsted Green**
The project involves the demolition of the Appleby Building to allow for the construction of a new pedestrian entrance to campus at the corner of Florida Avenue and 6th Street. The project includes a new entry plaza and walkway to Olmsted Green as well as the restoration of the walkways around Olmsted.
- 8. MSSD Residence Hall**
The new residence hall will consolidate the students currently located in Ballard North and in MSSD Residence Hall Building (“RHB”). The new facility will contain 144 student beds and six staff apartments. There will also be shared student common areas, lounges, kitchens, and laundry facilities on each floor.
- 9. Vacate Ballard North**
Once the new MSSD Residence Hall is completed, Ballard North will be vacated and turned back over to the University for its use. The building could be used for temporary student housing as residence halls on the campus are taken off-line for construction or renovation.
- 10. Demolish MSSD RHB**
Once the new MSSD Residence Hall is completed, MSSD RHB will be demolished and the site restored into green space. The site will become the future location of the playing fields for the Clerc Center.

Phase II – Implementation

- 1. New Museum & Visitor Center**
The new museum located at the corner of Florida Avenue and 6th Street will consolidate the existing museum exhibit space located in the Student Academic Center (“SAC”) and the existing museum offices located in Chapel Hall to this new facility. The facility will also serve as the campus visitor center, which is currently located in Edward Miner Gallaudet Hall (“EMG”).

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- 2. Relocation of Museum Offices**
The museum offices and support spaces currently located in the basement of Chapel Hall will be relocated to the new museum, freeing up this space for other use.
- 3. Relocation of Museum Exhibit Space**
The current museum space in the lower level of the SAC will be relocated to the new museum. The new museum will provide more space for display and other cultural programs.
- 4. New Innovation Lab & Business Incubator**
This new facility at the campus gateway at 6th Street will provide space for student research and start-up business ventures to interact with the community.
- 5. Mixed-Use Development at 6th Street**
The building will contain retail space on the ground floor along 6th Street and 350-bed student apartment-style housing above.
- 6. Student Learning Commons**
This new magnet building located between Olmsted Green and the Gallaudet Mall will house the functions of the library, deaf archives, IT helpdesk and student computer lab (from the SAC).
- 7. Relocation of Library & Deaf Archives**
Once the new Learning Commons is completed, the contents of the Library and the Deaf Archives will be relocated to this new facility. The vacated space in the Merrill Learning Center will be used for university swing space, specifically for programs currently located in the Ely Center.
- 8. Relocation of Student Computer from SAC**
The large student computer lab in the SAC will be relocated to the new Learning Commons facility, freeing up that space for academic use.
- 9. Relocation of Technology Services from HMB**
The IT helpdesk currently located in HMB will be moved to the new Commons facility freeing up this space for conversion into academic use.

Phase III – Implementation

- 1. Relocation of Ely Center Programs**
To prepare for the construction of the new academic building, the existing Ely Center will be demolished. The programs currently located in the Ely Center will

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be relocated to the Merrill Learning Center until the new student center at HMB is ready for operation.

2. Peet Hall Replacement

The project involves the demolition of the existing Peet Hall and the construction of a new 175-bed, suite-style student residence hall in the same location. While this project is occurring, beds will need to be made available in either the student apartments at 6th Street or in Ballard North.

3. New MSSD School/Demolish MSSD

A new MSSD School will be constructed on the Clerc Center campus to replace the existing MSSD building. Once completed, the existing building will be demolished and the site restored for use as playing fields.

4. Clerc Center Playing Fields

These new fields will occupy the site of the former MSSD residence halls and will later extend over the site of the former MSSD school. The fields will be constructed to open in conjunction with the new MSSD school.

5. Relocation of Kendall Hall Programs

The occupant of Kendall Hall will be temporarily relocated to the Merrill Learning Center while the building undergoes renovations.

6. Academic Building

This project involves the demolition of the existing Ely Center and the construction of a new academic building.

7. Relocation of Academics from HMB

Once the new academic building is complete, academic departments will be relocated to the new facility or other locations on campus.

8. Recreational Gym

The facility will be located to the east of the Field House along West Virginia Avenue allowing it to be shared between the campus and community. The building will provide additional space for non-collegiate athletics, faculty and staff, and local community members.

9. Renovation of HMB into New Student Center

The HMB facility will be completely renovated for use as the campus student center. The facility will centralize all student organization activities, university board dining and kitchen, retail dining, the bookstore, the post office, as well as add a new ballroom event space. An addition to the north corner of the building

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will house new kitchen space on the lower level with a ballroom multi-purpose space above.

10. Student Center Programs Relocation to HMB

Once HMB has been renovated, the student center programs which have been temporarily housed in the Merrill Learning Center will be moved to the renovated facility. The completion of the renovation work and the opening of the new student center will occur before the start of the fall semester.

11. Relocation of SAC Programs to HMB

The retail dining facilities, the bookstore, the post office, the student center information desks as well as all meeting room space will be moved to the new student center facility at HMB. The move will free up space in the SAC for renovation into new academic classrooms and department offices.

12. Renovation of Kendall Hall

The renovations will include full interior upgrades including in new finishes and building systems as well as selected exterior renovation and restoration.

13. Relocation of Academics to Kendall Hall

Once the renovations of Kendall Hall are complete, yet to be determined academic departments will be moved into the building.

14. SAC Renovation

The project will involve the full renovation of the SAC to prepare it for new academic department suites and classrooms.

15. Merrill Learning Center Demolition

Once all departments have been moved out of the building, it will be demolished to make way for the restoration of the Gallaudet Mall.

16. Gallaudet Mall Improvements

Once the demolition of the Merrill Learning Center is complete, the site will be filled and reworked to add green space to the mall and mark the completion of the mall improvements.

(a) Screening, signs, streets, and public utility facilities.

The 2012 Plan features a number of improvements and enhancements to the Campus. Specific improvements include: a new pedestrian gate and entry way at 6th Street and Florida Avenue; removal of the adjacent surface parking lot and related landscape improvements adjacent to

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College Hall and Kendall Hall; and the restoration of the Gallaudet Mall once the Merrill Learning Center is removed. The 2012 Plan also includes a pedestrian plan, a plan for bicycle parking, and an extensive utility plan.

(b) Athletic and other recreational facilities.

The 2012 Plan provides athletic and other recreational facilities and calls for the construction of a new recreation facility and the conversion of the Hall Memorial Building to a new Student Center.

(c) Description of all activities conducted or to be conducted on the campus, and of the capacity of all present and proposed campus development.

New construction will provide 256,804 square feet of gross floor area of University student life space, 200,000 square feet of gross floor area of residential use, and 20,000 square feet of gross floor area of University athletic use. In addition, a new 100,000 square foot MSSD building and a 55,000 square foot MSSD residence will be built on the Clerc Center. Each proposed building is designated in one of the following use categories:

- (i) Student Life;
- (ii) Library;
- (iii) Academic;
- (iv) Recreation/Athletic;
- (v) Residential; or
- (vi) Deaf Culture.

- 22. Pursuant to 11 DCMR § 210.5, the Commission finds that the University does not propose the interim use of land or improved property outside the campus with a college or university use.
- 23. Pursuant to 11 DCMR § 210.6, the Commission finds that the University does seek approval for any new use of a previously approved building site.
- 24. Pursuant to 11 DCMR § 210.7, the Commission finds that the 2012 Plan is not inconsistent with the Comprehensive Plan, including the designation of the Campus as “Institutional” and related provisions endorsing change and infill on university campuses

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consistent with campus plans. The University also provided evidence that the 2012 Plan is not inconsistent with other elements of the Comprehensive Plan, including the Framework Elements, the Land Use Element and Education Facilities Element. The Commission finds that the proposed 2012 Plan will further the goals and policies of the Comprehensive Plan.

25. Pursuant to 11 DCMR § 210.9, the Commission received reports in support from OP and DDOT regarding the campus plan. (Ex. 23, 24.)

Further Processing for Fay House and Ballard House

26. There are four buildings in the historic portion of the Campus, near the corner of 6th Street and Florida Avenue, N.E. that are referred to collectively as Faculty Row. These were all built as residences in the mid-1800s. The largest is the President's house. The other three are smaller and all three were used until recently as administrative office space. In March of 2010, the Commission approved Application No. 03-02A for a minor amendment to the 2002 Campus Plan, and further processing, to convert one of those three buildings (Denison House) from administrative use to residential use. Specifically, the approval authorized a change in the campus plan designation from administrative to residential use, and to renovate and convert the use from administrative office to student residence use, in order to create a living/learning community in the building.
27. The University now proposes to convert the other two buildings, Fay House and Ballard House, to student residence use as well. Like Denison House, Fay and Ballard were designated as administrative use under the 2002 Campus Plan. The 2012 Plan designates those two buildings as residential use. As the first major project to come out of the Campus Plan, the renovations will restore these two houses to student housing, creating two new living/learning communities along Olmsted Green. These new communities will enhance the existing living/learning community that was created in the adjacent Denison House in 2010. The projects will involve full interior renovation - finish replacement, new ceilings, new bathroom fixtures, new lighting and new MEP systems - as well as selected exterior aesthetic improvements. The two projects will begin the formation of a strong residential presence on the west side of Olmsted Green, to be further complemented by the future student apartments along 6th Street.
28. The Commission finds that the proposed conversion of Fay House and Ballard House to residential use is not likely to become objectionable because of noise, traffic, number of students, or other objectionable conditions for the reasons stated above. The conversion is designed to harmonize with existing campus development and uses.

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Office of Planning

29. By report dated November 19, 2012 and by testimony at the public hearing, OP recommended approval of the University's application for a new campus plan, and further processing to permit the renovation and conversion of Fay House and Ballard House to residential use. OP reviewed the application under the standards for special exception approval for a campus plan and further processing under § 210 concluded that the University had satisfied the burden of proof. OP recommended that the Commission approve the application, subject to conditions proposed by OP. (Ex. 24.)

District Department of Transportation

30. By report dated November 19, 2012, DDOT reported that they "expect[] minimal impact to traffic conditions resulting from the approval of the 2012 Plan." DDOT agreed that the University-related traffic increase associated with the proposed campus plan will be slight and commented favorably on the Applicant's TMP. (Ex. 23). DDOT requested certain additional items including more detail on the loading plan, specifically on the vehicular access points to the campus; and more detail on a pedestrian review and analysis. The Applicant provided this additional information in a post-hearing submission. (Ex. 36.)

ANCs

31. At a regularly scheduled meeting on October 4, 2012, with a quorum present, ANC 5B voted 7-0 in support of the University's application. (Ex. 25.)
32. At a regularly scheduled meeting on October 17, 2012, with a quorum present, ANC 6A voted 6-0 in support of the University's application. (Ex. 28.)
33. At a regularly scheduled meeting on November 14, 2012, with a quorum present, ANC 6C voted 7-0 in support of the University's application. (Ex. 22.)

Other Testimony in Support

34. At the hearing, the Commission heard testimony from Janna DiBiasi, a senior at Gallaudet, in support of the application. The Commission also received a letter in support of the application.

Testimony in Opposition

35. No testimony in opposition was presented at the hearing, nor was there any opposition of record.

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CONCLUSIONS OF LAW

1. The Applicant requested special exception approval, pursuant to 11 DCMR §§ 210, 3035, and 3104, of a new campus plan, and further processing under that approved plan. The Commission is authorized under the aforementioned provisions to grant a special exception when, in the judgment of the Commission based on a showing through substantial evidence, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. A special exception to allow use as a college or university in a residential zone district may be granted subject to the provisions contained in § 210, including that the university use must be “located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions,” and that maximum bulk requirements may be increased for specific buildings, subject to restrictions based on the total bulk of all buildings and structures on the campus. (11 DCMR §§ 210.2-210.9.)
2. Based on the above Findings of Fact, the Commission concludes that the University has satisfied the burden of proof for special exception approval of the proposed new campus plan in accordance with § 210. The 2012 Plan will provide limited new development, as well as a modest increase in student enrollment. The new development and the enrollment increase are not likely to become objectionable because of noise, traffic, number of students, or other objectionable impacts. The 2012 Plan is consistent with the provisions of the Comprehensive Plan, and will contain conditions provided in response to agency comment to mitigate any potential adverse impacts.
3. Based on the above Findings of Fact, the Commission concludes that the University has satisfied the burden of proof for special exception approval of further processing of the 2012 Plan in accordance with § 210. The renovation and conversion of Fay House and Ballard House are consistent with the 2012 Plan. The Commission concludes that the location and adaptive reuse of those two campus buildings are not likely to become objectionable due to noise, traffic, number of students or other objectionable conditions.
4. The Commission has accorded the recommendation of OP the “great weight” to which it is entitled pursuant to D.C. Official Code § 6-623.04 (2001). As discussed in this Order, the Commission concurred with the recommendation of OP to grant the University’s applications, subject to conditions.
5. The Commission has accorded the issues and concerns raised by ANC 5B the “great weight” to which they are entitled pursuant to D.C. Official Code § 1-309.10(d) (2001). In doing so, the Commission fully credited the unique vantage point that ANC 5B holds with respect to the impact of the proposed campus plan on the ANC’s constituents. All

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three ANCs that participated in this proceeding recommended approval of the application.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the 2012 Gallaudet University Campus Plan (the “2012 Plan”) and the level of University operation it describes until December 31, 2022, and further processing of the Fay House and Ballard House renovations and conversions to residential use, subject to the following conditions:

1. Fay House and Ballard House Renovation. The Fay House and Ballard House Renovations shall be developed in accordance with the plans and materials submitted by the University marked as Tab E of Exhibit 20 of the record.
2. Campus Development. The University shall be permitted to construct additional density as described in the 2012 Plan, provided that the proposed development is substantially in conformance with the 2012 Plan as follows:
 - (a) The location of each building shall be limited to the locations identified in the 2012 Plan; (Ex. 8, 20.)
 - (b) The uses within each building shall be substantially in conformance with the 2012 Plan; and (Ex. 8.)²
 - (c) The height, gross floor area, and lot coverage of each building shall be consistent with the 2012 Plan. (Ex. 8, 20.)
3. Students and Faculty. Upon the approval of the 2012 Plan, and for the remainder of the term of the 2012 Plan, the maximum student enrollment shall not exceed 2,238 students, which includes any person taking at least one class or course on campus. The maximum number of faculty and staff shall not exceed 980.
4. Traffic and Parking.
 - (a) The maximum number of parking spaces shall be 1,588, which may be reduced to a maximum of 1,367;

² The use categories indicate the predominant use for each proposed building but do not preclude other accessory uses, such as administrative offices in a residence hall or student life activities in an academic building.

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- (b) Delivery trucks of 55 feet or greater in length are permitted to turn westbound onto Florida Avenue when exiting the 8th Street gate, only with the assistance of appropriate construction or flag personnel to assist in that maneuver; and
 - (c) The University shall work with DDOT to supplement its Transportation Demand Management Program.
5. The 2012 Plan shall be valid for a period of 10 years, for a term ending on December 31, 2022.
 6. In any further processing request for the development of a University building on the east side of Campus that includes a pedestrian access into the campus directly from West Virginia Avenue, the Applicant shall submit information sufficient for a determination of whether there is a need for a sidewalk in the public space along West Virginia Avenue, and whether and to what extent that sidewalk can be accommodated in the public space.
 7. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (Act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

VOTE: 4-0-1 (Anthony J. Hood, Robert E. Miller, Marcie I. Cohen, and Peter G. May to approve; Michael G. Turnbull not present, not voting).

BY ORDER OF THE D.C. ZONING COMMISSION

The majority of the Commission members approved the issuance of this Order.

FINAL DATE OF ORDER: March 7, 2013.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 12-17
Z.C. Case No. 12-17
Text Amendment – 11 DCMR)
(Amendments to the Reed-Cooke Overlay District)
February 25, 2013**

The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.

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